



AGRICULTURAL RESEARCH INSTITUTE'

PUSA

THE
COUNCIL OF STATE DEBATES

VOLUME VIII

(17th August 1926 to 31st August 1926)

SECOND SESSION

OF THE
SECOND COUNCIL OF STATE, 1926



309298

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THE
COUNCIL OF STATE DEBATES
(Official Report)

VOLUME VIII

SECOND SESSION

OF THE

SECOND COUNCIL OF STATE, 1926



SIMLA
GOVERNMENT OF INDIA PRESS
1926

THE

COUNCIL OF STATE DEBATES

(OFFICIAL REPORT OF THE SECOND SESSION OF THE SECOND COUNCIL OF STATE.)

VOLUME VIII

SECOND VOLUME OF SESSION 1926.

COUNCIL OF STATE.

Tuesday, 17th August, 1926.

The Council met in the Assembly Chamber at Eleven of the Clock, being the first day of the Second Session of the Second Council of State, pursuant to section 63D (2) of the Government of India Act.

INAUGURATION OF THE SECOND SESSION OF THE SECOND COUNCIL OF STATE AND THE FIFTH SESSION OF THE SECOND LEGISLATIVE ASSEMBLY.

His Excellency the Viceroy with the Presidents of the Council of State and the Legislative Assembly having arrived in procession, His Excellency took his seat on the dais.

H. E. THE VICEROY : Gentlemen of the Indian Legislature, it is with much pleasure that I bid you welcome to the labours of another Session. Although the full term of the Assembly is not due to expire till January, it is generally convenient that the Elections should be held at the beginning of the cold weather, and the new Assembly brought into being in time for the January Session. Having regard to these considerations, I propose that dissolution should take place next month to be followed by the General Election in November. I recognise that, in these circumstances, it must have been inconvenient to some Honourable Members to attend this Session. Many of you will have found difficulty in leaving your constituencies at a time which you would naturally wish to devote to electoral activities, and many have had to travel long distances to attend a Session which must necessarily be of short duration.

I thank Honourable Members, therefore, the more for affording me this opportunity of making their acquaintance, and of acknowledging

the work they have done during the past Sessions of both Houses. Apart from the needs of public business, it was a desire to provide myself with such an opportunity that was largely responsible for my decision to hold this Session, for I do not forget that when I next address the Legislature, the ballot-box will have had its say, and though Members of the Council of State are happily at this time exempt from its operation, some of the Members of the Assembly whom I now see before me may have had to bow to its remorseless decree.

I am happy to inform you that the relations of India with the Kingdoms of Nepal and Afghanistan, as with other Powers whose countries adjoin our own, continue to be friendly.

The settlement of the difference between His Majesty's Government and the Government of Turkey about Mosul has removed the outstanding obstacle to a full understanding between the two countries, and has been hailed with satisfaction both by the Muslim community and by general Indian opinion.

In the sphere of Imperial policy, the most pressing of all questions affecting Indians, is the position of their fellow-countrymen in South Africa. When Lord Reading last addressed the Council of State, two months before his departure, he referred to the negotiations which were then in progress between the Government of India and the Government of the Union of South Africa, and which have had the satisfactory outcome already known to you. That result was due to, and could only have been achieved by, various influences operating in close combination. The steadfast policy of the Government of India was guided by the wise and patient diplomacy of Lord Reading, and assisted by the discreet restraint with which the Indian Legislature awaited the issue of developments which outwardly, at times, gave cause for anxiety and misgiving. The tact and dignity with which the Indian Deputation to South Africa stated the Indian cause, drew valued support from the un-official labours of Mr. Andrews, and, last but not least, I know that this Assembly would wish me to acknowledge the broadminded statesmanship of General Hertzog and his colleagues as expressed in their willingness to submit the Indian question in South Africa to discussion in a friendly conference. As has already been announced, the Conference will meet in December at Cape Town, by which means touch can be maintained with the opinion of Indians resident in South Africa, and the Government of India hope in due course to announce a *personnel* of the Indian Delegation which will satisfy the public that the case of India will be worthily presented. The reception accorded by Indian opinion to the decision to hold such a conference augurs well for its success. At the same time, in order to enable representatives of the various political parties in South Africa to appreciate India's point of view, and to strengthen the better understanding created by the visit of our Deputation to the Union, the Government of India extended, and the Union Government have accepted, an invitation to send a representative deputation to this country. This exchange of visits will, I am confident, do much to give to the peoples of the two countries the real desire to appreciate and appraise one another's difficulties, which is the first step to the discovery of means by which conflicting claims may be brought into harmonious relation. For however strong on every ground we conceive our cause to be, we do no service to it if we deny the existence of, or under-rate, the difficulties confronting those who are the responsible

spokesmen of South African opinion. Least of all do we assist our purpose if we affect to treat any question such as this, of which the roots lie more deeply bedded in human nature than our philosophy can easily discern, as one susceptible of easy decision by some application of coercive force. Any solution that is to deserve the name, and to stand the test of time, must be based upon mutual accommodation and carry the free assent of both communities.

In October the Imperial Conference will meet to discuss other important questions of general Imperial concern. Every year that passes shows more clearly that the various dominions of the King-Emperor constitute an inter-dependent organism in which no part can exist in lonely isolation. With the expansion of her natural and political resources, we may feel confident that India must take an increasingly important place in the general structure, for she has much both to give to, and receive from, others.

There are several important matters of domestic, financial and industrial concern to which I must especially direct your attention. Our recent rupee loan was a conspicuous success, and we may congratulate ourselves that in the space of two hours we obtained all the money we required on terms which are infinitely better than any we have been able to secure since the outbreak of the great European War. Indeed, they compare very favourably with terms recently obtained for long-term loans by even those Governments whose credit stands highest in the world's money markets. I see no reason to suppose that, when we come to replace our remaining short-term liabilities, we shall find any difficulty in obtaining terms as favourable.

The Report of the Taxation Enquiry Committee is under the careful consideration of Government, and matters are in train for that consultation with the Local Governments which is essential before action can be taken on the Committee's recommendations. In the meantime, in order both to fulfil the promise made to the Legislature and to assist Government in formulating their conclusions, resolutions will be moved this Session in both Chambers in such terms as to give Honourable Members an opportunity of expressing their views on any portion of the Report in which they may be interested.

The Report of the Royal Commission on Indian Currency and Finance is now in your hands and testifies to the thoroughness with which Mr. Hilton Young and his colleagues have done their work. Whatever judgment may be formed of their conclusions, it will be readily admitted that by the care and knowledge which they have brought to the examination of these matters, they have given us very valuable assistance. As already announced, the Government of India have accepted two of the chief recommendations of the Commission, namely, the ratio of the rupee to gold and the method of establishing that ratio during the period which must elapse before the responsibility for the control of the currency can be transferred to a Central Bank.

In view of the acceptance of these recommendations Government felt that there should be no delay in making a clear statement of its policy, and that as immediate action by Government was necessary, it was their plain duty to bring the matter before the Legislature at the earliest possible date. A Bill will therefore be introduced during this Session, and I feel

confident that so grave and weighty a subject will be examined not in the light of any local interests but with reference to its ultimate reaction upon the economic and commercial prosperity of the whole country.

As Honourable Members will be aware, the Tariff Board is now occupied with an important statutory enquiry into the steel industry, and the Bombay Mill-owners' Association recently applied for an early and comprehensive enquiry into the cotton textile industry. The depression in the latter industry has for some time been a matter of grave concern to the Government. In order therefore to avoid delay, Government decided to appoint a second Board, which commenced its investigations at Bombay at the beginning of July. It is hoped that the reports of both these Boards will be submitted within the next three months, in time for consideration at the next Delhi Session.

In addressing the Legislative Assembly at the beginning of this year Lord Reading outlined the object and duties of the Royal Commission on Agriculture, which will begin its labours two months hence. The personnel of the Commission is now known to you. In its President, Lord Linlithgow, it is fortunate in having a man who combines sound practical experience in farming with a life-long study of its scientific theory. He has as his colleagues a body of men, who by their knowledge of practical agriculture, rural economy, science and engineering, are well fitted to analyse and review the allied questions on which the greater prosperity of the agriculturist depends.

There is another aspect of the economic development of India to which I may refer. Railway construction, which up to 1914 had made rapid progress, was checked in its stride by the upheaval of the Great War and the years immediately succeeding it. During the last five years the most urgent work has been carried on, not without difficulty, but now, as a result of the improved financial position of railways generally, the Railway Board feel able to consider the adoption of a definite scheme of construction for the next five years. They have devoted particular attention to the development of traffic in rural areas with a view to stimulating agriculture, and by a new adjustment of standards of construction to the conditions of each area they hope, in their present programme, to add 6,000 miles of railway which will be at once remunerative and a boon to the country which they serve.

Another and a more important development of railway policy is also being carried out. The Government of India, with the approval of the Secretary of State, have accepted the recommendation of the Royal Commission on Public Services that recruitment in India to the Superior Railway Services should gradually be brought up to 75 per cent. of the total number of vacancies in each year. Rules have recently been published which give effect to this policy in all the principal branches of the Superior Railway Service.

In another direction also the further recruitment of Indians has taken definite shape.

In their last Session the Legislative Assembly accepted in principle the scheme for the establishment in Indian waters of a training ship for deck officers. The estimates of the cost of the scheme have now been prepared in more detail, and a demand for a grant will be placed before the Assembly at this Session to cover the expenditure contemplated during the year.

Honourable Members will have observed that, in pursuance of the proposals made by the Lee Commission affecting the Public Services, a Public Service Commission has now been constituted which will commence its work on the 1st October. The orders passed on the Lee Commission Report involve a very marked increase in the Indianisation of the great Public Services and, with this wide extension of Indianisation, it becomes a matter of vital importance to improve our machinery for recruiting Indians. This will be one of the main functions of the Commission. They will also, it is hoped, assure to the Services, in their capacity as an impartial court of reference, protection in the honest performance of their duties from all influences, whether political, personal or communal, which might affect them. It will be within the recollection of Honourable Members that the Lee Commission made various suggestions of importance in connection with the delegation of powers of control over the Services. It was recognised that so long as Provincial Governments on the transferred side were not free to organise the Superior Services which administer the subjects committed to their charge, their initiative might be to some extent restricted. The Commission therefore proposed that fresh recruitment to the all-India Services working on the transferred side should cease, and that Local Governments should be entrusted with the power of organising new services on a provincial basis, which would gradually take over the duties at present performed by these all-India Services, as the latter gradually disappeared through retirement. Recruitment for the all-India Services referred to was stopped as soon as the recommendations of the Lee Commission were accepted, and recently by Resolutions passed by the Secretary of State in Council, power has been given to Local Governments to organise such new Provincial Services as they may require. The organisation will be no easy task, but the Local Governments will be able to follow their own line of policy and to mould their schemes to suit local requirements, and these powers represent an important step in increasing the control of Ministers over Transferred Subjects.

Hitherto, I have referred only to the all-India Services serving on the transferred side. The Lee Commission also made recommendations of far-reaching importance with regard to the control of the Central Services, which work directly under the Government of India. With a few exceptions, it has been decided that control over these great Central Services should be delegated by the Secretary of State in Council to the Government of India. The necessary rules are at present under preparation, and I hope that within a few months the delegation will be an accomplished fact. With the completion of this task and the settlement of the problem of the Indian Medical Service, the action on the recommendations of the Lee Commission will practically be complete, and a reorganisation of the Services of a very striking character will have been accomplished.

This action is the administrative counterpart of that taken seven years ago by the British Parliament towards enabling India, through the working of popular institutions, to assume greater responsibility for her own destiny. From the purpose then declared, the British people and the British Parliament have never wavered. By the action that they then took they gave statutory recognition to two governing ideas. They recognised the right of India to move towards self-government,

and they recognised the obligation imposed upon the British people acting through Parliament to assist India to make that right a practical reality.

Though on the surface these ideas may seem to conflict, they are in truth complementary. We can no more deny the fundamental duty of Parliament thus to assist India and to judge of the progress made, than we can deny the ultimate claim which India makes, and to the satisfaction of which we work. It is certain that, before this claim can be fully realised, many obstacles imposed by history, circumstance and nature will need to be surmounted, and I cannot doubt that the task is one, of which the successful discharge must depend upon a true reconciliation of those rights and responsibilities to which I have made allusion. It would indeed seem certain that when the past achievements of progress have been the happy fruit of joint Indian and British effort, so now, in the solution of present difficulties each race has an indispensable part to take. Within the next three years at the most from now the Statutory Commission will be appointed to conduct an investigation on behalf of the British Parliament into the working and the results of the Constitutional Reforms, in their widest aspect. The purpose of this enquiry will be to ascertain the degree of efficiency, or otherwise, with which the policy of 1919 has proceeded. I am well aware that in various quarters the existing scheme has been criticised, and that there has been, and will be, sharp disagreement as to the character and occasion of further progress. I would permit myself however to hope that, if difference there must be, it shall be such difference as will not make us unwilling to admit the sincerity of those whose views on these subjects differ from our own. For my own part, I trust that I shall always be ready to acknowledge in those whose political views I cannot share, the same honesty of conviction which I claim for myself, and for those whose duty it is to speak for Government. And I should be the last to desire, that in taking their share of a common task for the service of India, any should be required or expected to abandon principles which they revere. For peoples, as for individuals, the qualities which are needed to shoulder responsibilities are qualities which would be strangled by the denial of individuality, and it is no part of the British purpose to seek to force India into a mould unfriendly to the main features of Indian life and character. Events in the interval between now and the Commission's enquiry cannot fail to exert great influence upon the conclusions at which that body will arrive, and in this connexion I cannot refrain from referring to the feeling which still prevails between communities.

This unhappily remains the burning question, and I have anxiously watched for any signs that the responsible members of the two communities are approaching it in that spirit of mutual tolerance which alone can put an end to discord. I am not so sanguine as to think that the temper of whole communities can be changed in a moment; time is required to lay its healing hand on the wound that is now wasting our civic life.

But meanwhile, we have obligations to law-abiding citizens. Although, indeed, these matters are the primary concern of Provincial Governments, the form in which they are now emerging has in a real sense made them of all-India interest. While it is no part of

the functions of the Executive Government to ascertain or determine in any judicial sense the private rights of citizens—for an elaborate system of courts has been provided for that purpose—it is the undoubted duty of the executive authorities to secure that, subject to the rights of others and the preservation of the public peace, the enjoyment of those rights is secured to the individual. That duty the Government of India in co-operation with the Local Governments desire should be performed with fairness and scrupulous impartiality. In ordinary times when no particular cause of friction arises, the enjoyment of private rights connected with the observance of the numerous religious festivals in this country has, under the protection of the British Government, been secured for many generations. In times of communal tension, untenable claims of rights and exaggerated opposition have from time to time caused great anxiety to the authorities, and the maintenance of the public peace has been a difficult task. The antagonism which some members or sections of the communities concerned have recently displayed towards the observances of others appears to some extent to be based, not so much on traditional loyalty to any creed, as on new assertions of abstract rights which it is sought to invest with the sanctity of ancient principles. This tendency has been more marked in the recent troubles than at any previous period in the British administration. It cannot be too clearly emphasised that Government have no intention whatever of allowing any unjust or unreasonable claims, still less any violence or threat of violence, to deter them from their clear duty of maintaining the public peace and, so far as is compatible with the rights of others, the right of the individual citizen to pursue unhampered his lawful avocations.

The present state of affairs is one which must, so long as it lasts, cause the gravest anxiety to all well-wishers of India. The Secretary of State gave clear expression to such a feeling in his recent speech in the House of Lords, a speech which reaffirmed not only his real sympathy with the hopes of the Indian peoples, but also his determination to lead them, by the safest and surest path, towards the goal which they desire to reach.

If it is my earnest hope, therefore, that the course of public affairs in the years immediately before us may be such as will justify the hopes of those who have seen in the Reforms, tentative and imperfect as they may be, a generous attempt to equip India with the practical experience which is requisite if she is to undertake successfully an increasing share in her own Government. In the natural sphere, the mountain torrent, swollen with rains, rushing down in spate, wasted and unguided, brings no benefit but only disaster and destruction. The same waters, if their force may be wisely and beneficially directed, are the friend of man, and powerful to give new life to all that may be brought within their range.

In this parable of Indian life lies surely a truth that is not without its application to the world of Indian polities. Men of different temperaments, creatures of different circumstances, will see the same problem with different eyes, and, so seeing it, are prone to misjudge or be impatient with those whose outlook and perspective differ from their own. One thing, however, is very sure. Human nature is designed to be the master, not the slave of circumstance; and problems which baffle us when approached

through the atmosphere of suspicion and distrust will seem less intracable if that atmosphere may be dispelled. India has abundance of ability, but some of it in the past has been directed along lines that could at the best lead to no useful or durable result.

The attempt to apportion blame for past disappointments, mistakes or misunderstandings is an empty and barren enterprise. We face the future, in which a few years are a puny measure by which to calculate the growth of nations. In that future I do not hesitate to say that the whole of the resources that India can command are needed for one of the greatest constructive tasks which has ever enlisted human energies and hopes.

COUNCIL OF STATE.

Wednesday, the 18th August 1926.

The Council met in the Council Chamber at Viceregal Lodge at Eleven of the Clock, and the Honourable the President (Sir Henry Moncrieff Smith, Kt., C.I.E.) took the Chair.

MEMBERS SWORN :

The Honourable Mr. Alexander Montague Stow, O.B.E. (Delhi : Nominated official) ; the Honourable Major-General Thomas Henry Symons, C.S.I., O.B.E., K.H.S., (Director-General, Indian Medical Service) ; the Honourable Saiyid Raza Ali, C.B.E. (United Provinces East : Muhammadan) ; the Honourable Mr. Henry Tireman, C.I.E., (Madras : Nominated official) ; the Honourable Mr. Geoffrey Latham Corbett, C.I.E., (Commerce Secretary) ; the Honourable Mr. John Edwin Clapham Jukes, C.I.E., (Finance Secretary) ; the Honourable Sir Maneckji Byramji Dadabhoy, K.C.I.E., (Central Provinces : Nominated Non-official) ; the Honourable Mr. William Athelstan Gray, (Burma Chamber of Commerce) ; the Honourable Mr. Donald Weston, (Bihar and Orissa : Nominated official) ; the Honourable Mr. John William Smyth, (Bombay : Nominated official) ; and the Honourable Mr. Alexander Langley, C.I.E., (Punjab : Nominated official).

QUESTIONS AND ANSWERS.

GROSS RECEIPTS OF THE INDO-EUROPEAN TELEGRAPH DEPARTMENT.

1. THE HONOURABLE MR. MANMOHANDAS RAMJI : Will Government be pleased to state whether the gross receipts of the Indo-European Telegraph Department have increased in India from 1921-22 to 1925-26 but have decreased considerably in the same period in England ? If so, why ?

THE HONOURABLE MR. A. H. LEY : The gross receipts in India of the Indo-European Telegraph Department have shown considerable fluctuations during the five years referred to, but on the whole have not increased. The gross receipts in England increased from 1921-22 to 1923-24 but dropped heavily during the following two years. The drop in these receipts was due partly to the world-wide trade depression, and partly to the reopening in August 1923 of the line between Persia and Europe which had been interrupted throughout the war, and consequent realisation of receipts in India on account of telegrams sent to Europe "via Indo" instead of "via Eastern." It may be explained that receipts of this nature in India although taken into account in determining the share of the Indo-European Telegraph Department as a partner in the cis-Indian JOINT PURSE are not actually paid into the JOINT PURSE Account but are deducted from the share so determined in order to arrive at the balance payable in England. The receipts in India would thus normally have shown an increase during the last two years of the

period but for the counterbalancing effect of a heavy fall in traffic over the local systems in Persia and the Persian Gulf due to trade depression and to the withdrawal of troops from Iraq.

ESTIMATED LOSS OF RS 6·7 LAKHS FOR THE YEAR 1926-27 TO THE GOVERNMENT OF INDIA IN THE WORKING OF THE INDO-EUROPEAN TELEGRAPH DEPARTMENT.

2. **THE HONOURABLE MR. MANMOHANDAS RAMJI :** Is it a fact that the Indo-European Telegraph Company has declared a dividend and a bonus of 10 per cent. in their last balance sheet ? If so, how was it that there is an estimated loss of rupees 6·7 lakhs for the year 1926-27 to the Government of India in the working of the Indo-European Telegraph Department ?

THE HONOURABLE MR. A. H. LEY : The Indo-European Telegraph Company is a private concern and the Government of India have no information regarding the profits made by that Company. The Indo-European Telegraph Department besides controlling lines connecting the telegraph system in India with the Indo-European Telegraph Company's terminal at Teheran, control local systems in Persia, the Persian Gulf and Baluchistan. The latter are less remunerative than the former.

REMOVAL OF THE HEADQUARTERS OF THE INDO-EUROPEAN TELEGRAPH DEPARTMENT TO INDIA.

3. **THE HONOURABLE MR. MANMOHANDAS RAMJI :** (a) What action, if any, have the Government taken on the recommendations of the Inchcape Committee that the control of the Indo-European Telegraph Department should be transferred to the High Commissioner and the suggestion of Sir Purshotamdas Thakurdas, a member of that Committee, that the headquarters of the Department should be removed to India ?

(b) If no action has been taken on these recommendations, will Government be pleased to state why not ?

THE HONOURABLE MR. A. H. LEY : (a) and (b) The Indian Retrenchment Committee did not recommend the transfer of control of the Indo-European Telegraph Department to the High Commissioner for India. The position as regards the future of the Indo-European Telegraph Department is as follows :—

Last year when the Government of India were considering proposals for improving the present system it was found that the information regarding the value of the assets, particularly those in Persia, and the terms on which they were held was incomplete. Arrangements were therefore made for the collection of the wanting information, and at the same time the Government of India asked that the general financial position of the Department should be investigated by the application to the accounts of the principles of commercialisation adopted in the case of the Postal and Telegraph Department. There has been a good deal of unavoidable delay in collecting the information required by the Government of India ; much of it had to be obtained in London. The complete information has only recently become available, and the Government of India are now considering the whole question afresh in the light of that information with a view to submitting their recommendations on the subject to the Secretary of State.

FUNCTIONS OF THE INDO-EUROPEAN TELEGRAPH DEPARTMENT, ETC.

4. THE HONOURABLE MR. MANMOHANDAS RAMJI: Will Government be pleased to state what is the exact function of the Indo-European Telegraph Department, what is the work assigned to the Indo-European Telegraph Company and what is the method of distribution of profits, if any, and apportionment of losses, if any ?

THE HONOURABLE MR. A. H. LEY: The Honourable Member is referred to paragraphs 2 and 3 of the Report of the Indian Retrenchment Committee under the head Indo-European Telegraph Department and to paragraphs 12 and 13 of the Appropriation Report on the accounts of the Postal and Telegraph Department for the year 1922-23 and to paragraph 42 of the similar report for the year 1924-25.

AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND THE INDO-EUROPEAN TELEGRAPH DEPARTMENT.

5. THE HONOURABLE MR. MANMOHANDAS RAMJI: Will the Government be pleased to place on the table a copy of the agreement between them and the Indo-European Telegraph Company ?

THE HONOURABLE MR. A. H. LEY: There is no such agreement.

RECOMMENDATIONS OF THE PIECE WORKERS' COMMITTEE.

6. THE HONOURABLE MR. G. S. KHAPARDE: (i) Will the Government be pleased to state whether—

(a) any of the recommendations made by the Piece Workers' Committee, 1922, have been given effect to ; if so, how many and which ; and *

(b) any recommendations made by the said Committee have not yet been given effect to ; if so, how many and which ?

(ii) In the case of recommendations not yet given effect to, will the Government be pleased to state the reasons for not giving effect to them ?

THE HONOURABLE MR. A. H. LEY: All the recommendations of the Piece Workers' Committee, 1922, have been given effect to with the following exceptions :—

- (1) The distinction between permanent and temporary establishment has been abolished only so far as to give temporary hands who have rendered 25 years' continuous and approved service the same right to pensions as permanent hands. The complete abolition of the distinction would have made it extremely difficult to adjust the strength of the staff to the volume of work.
- (2) The proposal to condone 16 days' absence each year with retrospective effect in calculating qualifying service for pension has not been accepted as it would have favoured those who had worked irregularly as against the regular workers.
- (3) The provident fund for press employees has not yet been started, as the rules for the fund have not yet been finally approved.

EXPENDITURE ON NEW MACHINES IN THE GOVERNMENT PRESSES AT SIMLA, DELHI AND CALCUTTA.

7. **THE HONOURABLE MR. G. S. KHAPARDE:** (a) What was the expense incurred from 1922 to 1926 in the purchase and installation of new machines in the Government Presses at Simla, Delhi and Calcutta?

(b) Has this expenditure led to any economies and, if so, to what amount?

THE HONOURABLE MR. A. H. LEY: (a) Rs. 11,79,017.

(b) Yes. The expenditure in the three Presses in 1922-23 was approximately Rs. 28,50,000 and in 1924-25, the latest year for which figures are available, it was Rs. 21,00,000. The Honourable Member will understand that several factors contributed towards this very large saving, and it is not possible to say precisely how much of the saving was due to the installation of machinery. But that was certainly an important factor.

WORK DONE FOR THE GOVERNMENT PRESSES AT DELHI, SIMLA AND CALCUTTA BY PRIVATE COMPANIES BETWEEN 1922 AND 1926.

8. **THE HONOURABLE MR. G. S. KHAPARDE:** (a) Was any work, which the Government Presses at Delhi, Simla and Calcutta are capable of doing, given out on contract to private companies during the period between 1922 and 1926?

(b) If the answer to (a) be in the affirmative, what was the amount paid to contractors during each of these years?

(c) Has the purchase of the machines mentioned in question No. 7 led to any reduction in the sums annually paid to contractors and, if so, what is the sum saved?

THE HONOURABLE MR. A. H. LEY: (a) The Government Presses are capable of doing all the work given to contractors in the sense that they have equipment of the proper type for this work; but they have not sufficient staff, accommodation or machinery to undertake all the printing work required by Government, and a certain portion therefore has to be given out on contract.

(b) The amount paid to contractors for printing work was as follows:—

In 1922-23	..	..	..	..	Rs. 5,64,241
In 1923-24	..	..	..	..	Rs. 2,58,868
In 1924-25	..	..	..	..	Rs. 2,48,886
In 1925-26	..	..	..	..	Rs. 4,67,868

(c) Yes. As the figures I have given will indicate, there has been a reduction in expenditure under the head "Payment to contractors". The machinery installed in the Presses mentioned by the Honourable Member was, however, purchased to effect not so much a reduction in the work given to contractors as economy in the normal work of these Presses.

CONSTRUCTION OF THE THAL CANAL LESSER PROJECT.

9. **THE HONOURABLE NAWAB SAHIBZADA SAYAD MUHAMMAD MEMR SHAH:** Will the Government be pleased to make a clear and definite statement with regard to the construction of the Thal Canal

Lesser Project, which was submitted by the Punjab Government to the Government of India for sanction in November 1925 ?

THE HONOURABLE MR. A. H. LEY : The main point for decision at present in connection with the Thal Canal Lesser Project is, whether, on the completion of the Sutlej Valley Project, there will be sufficient surplus water in the Indus to permit of the construction of the Thal Canal without adversely affecting the Sukkur Barrage Project as sanctioned. Before coming to a decision on the question whether it would be possible for them to recommend the construction of the Thal Project to the Secretary of State, the Government of India have suggested to the Governments of the Punjab and Bombay the desirability of referring this point for the advice of a Board of Irrigation experts, and the matter is now under discussion with the Local Governments concerned.

THE THAL CANAL LESSER PROJECT.

10. THE HONOURABLE NAWAB SAHIBZADA SAYAD MUHAMMAD MEHR SHAH : (i) Did the Thal proprietors of Bhakar and Leah Tahsils submit a memorial to the Government of India through the Local Government in April last with the prayer that the Government of India—

- (a) should sanction the Thal Canal Lesser Project without further delay ; or
- (b) in default of (a), should repeal the Sind Sagar Doab Colonization Act, I of 1902 (Punjab) ?

(ii) If so, will the Government be pleased to state the action taken on the memorial ?

THE HONOURABLE MR. A. H. LEY : (i) Yes.

(ii) The matter is still under consideration.

CONSTRUCTION OF A RAILWAY FROM CONTAI ROAD STATION ON THE BENGAL NAGPUR RAILWAY TO CONTAI IN THE MIDNAPUR DISTRICT.

11. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Will the Honourable Member in charge of the Railway Department be pleased to state whether any survey has been completed for a railway line from Contai Road Station on the Bengal Nagpur Railway to Contai in the district of Midnapore, Bengal ?

(b) Will the Honourable Member in charge of the Railway Department be pleased to state what steps, if any, are being taken by the Indian Government to open a railway line, at an early date, from Contai Road Station to Contai in the district of Midnapore ?

THE HONOURABLE MR. G. L. CORBETT : (a) Yes. A survey of this line was carried out in 1915-16.

(b) Orders have been issued recently for the revision of the engineering and traffic estimates of the line to bring them up to date. If they show that the expenditure will be remunerative the question of the construction will be reconsidered.

CONNECTION OF THE LOCAL TRAIN FROM MIDNAPUR TO KHARAGPUR WITH THE UP HOWRAH-PURI PASSENGER TRAINS AT KHARAGPUR.

12. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Is the Honourable Member in charge of the Railway Department aware that great hardship is experienced by the general public owing to the fact that no local train from Midnapur to Kharagpur connects with the Up Howrah-Puri Passenger trains at Kharagpur ?

(b) Is the Honourable Member in charge of the Railway Department aware that the travelling public from Midnapore has to wait for about three hours at Kharagpur for the Up Puri Passenger ?

(c) Will he be pleased to state whether it is proposed to introduce more convenient timings ?

THE HONOURABLE MR. G. L. CORBETT : (a), (b) and (c) The Government are not aware of the inconvenience complained of, but they will take steps to bring the Honourable Member's suggestion to the notice of the Railway Administration.

NUMBER OF INDIANS ON MORE THAN RS. 300 A MONTH IN THE RAILWAY ELECTRICAL DEPARTMENT.

13. THE HONOURABLE SAIYAD ALAY NABI : Will the Government be pleased to state how many Indians in the Railway Electrical Department are drawing more than Rs. 300 a month ?

THE HONOURABLE MR. G. L. CORBETT : There are at present 13 Indians including Anglo-Indians in the superior staff and three others are to be appointed shortly on probation. I regret that our returns which are printed in the appendices to the Administration Report do not show separately the Electrical Branch, and that the information required by the Honourable Member regarding subordinates is not available.

CONSTRUCTION OF SEPARATE CENTRAL RAILWAY STATIONS FOR PASSENGER AND GOODS TRAFFIC AT AGRA.

14. THE HONOURABLE SAIYAD ALAY NABI : Will the Government be pleased to state whether it is in contemplation to build in Agra separate central railway stations for passenger and goods traffic ?

THE HONOURABLE MR. G. L. CORBETT : The reply is in the negative.

ABOLITION OF THE ARMY CANTEEN BOARD.

15. THE HONOURABLE SAIYAD ALAY NABI : Has the Army Canteen Board system resulted in loss ? If so, do the Government propose to abolish it ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The information desired by the Honourable Member is given in the report of the Committee which was appointed to inquire into the affairs of the Army Canteen Board, India. The report was published on the 8th May 1926, and a press communiqué was issued at the same time which explains the intention of the Government. No further decision has yet been arrived at.

EMIGRATION OF MOPLAH FAMILIES TO THE ANDAMAN ISLANDS.

16. THE HONOURABLE SAIYAD ALAY NABI: How many Moplah families, if any, have emigrated to the Andaman Islands since the visit thereto of the Honourable the Home Member?

THE HONOURABLE MR. J. CRERAR: None.

TOTAL NUMBER OF SCHOLARS IN THE ROYAL INDIAN MILITARY COLLEGE AT DEHRA DUN.

17. THE HONOURABLE SAIYAD ALAY NABI: (a) What is the total number of scholars in the Sandhurst College at Dehra Dun?

(b) How many were admitted last year?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) There are at present 76 cadets at the Prince of Wales' Royal Indian Military College, Dehra Dun.

(b) 13 cadets were admitted to the College during 1925.

PROVISION OF A COMPOSITE FIRST AND SECOND CLASS CARRIAGE IN THE TRAINS BETWEEN AGRA AND LUCKNOW.

18. THE HONOURABLE SAIYAD ALAY NABI: Will the Government be pleased to draw the attention of the Railway Board to the need of a composite first and second class carriage in the trains running between Agra and Lucknow?

THE HONOURABLE MR. G. L. CORBETT: Government understand that the proposal to introduce a through first and second class composite carriage between Lucknow and Agra *via* Cawnpore and *vice versa* is already under the consideration of the Agent, East Indian Railway.

REMOVAL OF THE OFFICE OF THE SALT DEPARTMENT FROM AGRA TO DELHI.

19. THE HONOURABLE SAIYAD ALAY NABI: Is it in contemplation to remove the Salt Department office from Agra to Delhi? If so, will the Government be pleased to consider its present central position and its nearness to Rajputana, before deciding to remove it?

THE HONOURABLE MR. J. E. C. JUKES: The answer to the first part of the question is in the affirmative. I do not think Delhi is less central than Agra for the work of the Salt Department.

REMOVAL OF THE CENTRAL TELEGRAPH OFFICE FROM AGRA TO DELHI.

20. THE HONOURABLE SAIYAD ALAY NABI: Do the Government propose to remove the Central Telegraph Office from Agra to Delhi?

THE HONOURABLE MR. A. H. LEY: The answer is in the negative. I may say, however, that there is a proposal, which is under the consideration of the Director-General of Posts and Telegraphs, to transfer into Delhi some of the circuits now working into Agra.

PUBLICATION OF THE PADDISON COMMITTEE'S REPORT.

21. THE HONOURABLE SAIYAD ALAY NABI : Will the Government be pleased to publish the report of the Paddison Committee on South Africa ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : The matter is under consideration.

PUBLICATION OF THE CORRESPONDENCE RELATING TO THE SOUTH AFRICAN COLOUR BAR BILL.

22. THE HONOURABLE SAIYAD ALAY NABI : Will the Government be pleased to publish the correspondence which took place between the South African Government and the Government of India, relating to the Colour Bar Bill passed by the South African Government ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : The result of the representations made by the Government of India to the Union Government on the Colour Bar Bill was announced in the Press Communiqué, dated the 4th June 1926. Government do not consider that it would be in the public interest at present to publish the correspondence referred to.

ESTABLISHMENT OF A TRAINING SHIP IN INDIA.

23. THE HONOURABLE SAIYAD ALAY NABI : Will the Government be pleased to state what progress has been made with the scheme for the establishment of a training ship in India ?

THE HONOURABLE MR. G. L. CORBETT : It is proposed to convert the R. I. M. S. "Dufferin" into a training ship and, with the approval of the Standing Finance Committee, the Legislative Assembly is being asked to vote an additional grant to enable this work being taken in hand during the current financial year.

LEVY OF A COUNTERVAILING DUTY ON SOUTH AFRICAN COAL.

24. THE HONOURABLE SAIYAD ALAY NABI : Have the Government considered the minority report of the Indian Tariff Board, regarding the levy of a countervailing duty of Rs. 1-8-0 per ton of South African coal ? If so, have they come to any decision on it ?

THE HONOURABLE MR. G. L. CORBETT : The Honourable Member is referred to the Resolution on Tariffs, dated the 17th July 1926, which was published in the Gazette of India of the same date. The decision announced in it was taken after careful consideration of the Minority Report.

WELFARE OF INDIAN LABOURERS IN CEYLON.

25. THE HONOURABLE SAIYAD ALAY NABI : Has the attention of the Government been drawn to the grievances, if any, of the Indian labourers in Ceylon ? If so, what steps do the Government propose to take to better their condition ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : The Government of India have for some time been in communication with the Government of Ceylon regarding certain matters affecting the welfare of Indian labourers in Ceylon, of which the introduction of a standard minimum wage is the most important, and hope to be in a position shortly to announce the result of these

DATE OF THE ARRIVAL IN INDIA OF THE DEPUTATION FROM SOUTH AFRICA.

26. THE HONOURABLE SAIYAD ALAY NABI : When is the deputation from South Africa expected in this country ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : About the 18th September.

GRANT OF A SUBSIDY OR GUARANTEE TO THE IMPERIAL AIRWAYS, LIMITED.

27. THE HONOURABLE SAIYAD ALAY NABI : Do the Government propose to give any subsidy or guarantee to the Imperial Airways, Limited ? If so, what ?

THE HONOURABLE MR. A. H. LEY : The answer is in the negative.

REPEAL OF THE MADRAS PLANTERS LABOUR ACT.

28. THE HONOURABLE SAIYAD ALAY NABI : Do the Government intend to repeal the Madras Planters Labour Act and the penal enforcement of labour contracts ?

THE HONOURABLE MR. A. H. LEY : The Madras Planters Labour Act is a provincial Act, and the question of its repeal is therefore one which is primarily the concern of the Local Government. As regards central legislation, the penal provisions of the Assam Labour and Emigration Act are no longer operative and the Workmen's Breach of Contract Act and sections 490 and 492 of the Indian Penal Code have been repealed.

GRANT OF RELIEF TO THE RETURNED EMIGRANTS FROM BRITISH GUIANA STRANDED IN CALCUTTA.

29. THE HONOURABLE SAIYAD ALAY NABI : Do the Government intend to do anything to help the returned emigrants from British Guiana, at present stranded at Calcutta ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : The Government of India have been informed that there are about 800 repatriates from the various Colonies including British Guiana who are living in the neighbourhood of Calcutta. There is said to be considerable discontent among them owing to the fact that they find conditions of work in this country harder and less remunerative than in the Colonies. They also, probably, find the social restraints of their class in India somewhat strange and not altogether agreeable. For these reasons they appear anxious to return to the Colonies. Government have no evidence, however, in support of the suggestion that there is any destitution among them, or among new repatriates generally. Almost all the returned emigrants now in Calcutta are said to have found employment in the docks and local mills and a few are earning rather good wages. The question of permitting such of these repatriates as can be assisted to return to the Colonies under section 2 (1) (b) (i) of the Indian Emigration Act (Act No. VII of 1922) is receiving consideration.

GRANT OF FREE PASSAGES TO EUROPE AND BACK TO ALL MEMBERS OF THE INDIAN MEDICAL SERVICE.

30. THE HONOURABLE SAIYAD ALAY NABI : Will the Government be pleased to extend travelling facilities in the shape of free passages to Europe

and back to all members of the Indian Medical Service, whether European or Indian ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : European members of the Indian Medical Service are already in receipt of passage concessions on the conditions promulgated in Army Instruction (India) No. 5-S. of 1925, a copy of which will be found in the Library. As the Honourable Member is no doubt aware, the grant of passage concessions generally depends on the domicile of the officer : but the question of providing Indian members of the Indian Medical Service with further facilities for proceeding to the United Kingdom on study leave is under consideration.

CONSULTATION WITH THE INDIAN LEGISLATURE IN THE SELECTION OF MEMBERS FOR THE SOUTH AFRICAN DEPUTATION.

31. THE HONOURABLE SAIYAD ALAY NABI : Will the Government be pleased to take the Indian Legislature into confidence when selecting members for the South African deputation ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : Government regret their inability to consult the Legislature regarding the selection of delegates, but the Honourable Member may rest assured that every endeavour will be made to choose men who are likely to command the confidence of both Houses and the country.

STOPPAGE OF THE CULTIVATION OF OPIUM IN INDIA.

32. THE HONOURABLE SAIYAD ALAY NABI : What steps have been taken by the Government to put a stop to the cultivation of opium in India ?

THE HONOURABLE MR. J. E. C. JUKES : Opium may only be cultivated in British India on behalf of Government, which controls the area cultivated each year. The area has recently been much reduced and will continue to be reduced in accordance with the diminishing requirements of Government.

ISSUE BY GUARDS OF CERTIFICATES TO PASSENGERS TRAVELLING WITHOUT TICKETS.

33. THE HONOURABLE SAIYAD ALAY NABI : (a) Has the attention of the Government been drawn to the new rule introduced by the East Indian Railway by which guards are prohibited from issuing certificates to passengers travelling without tickets ?

(b) Will the Government be pleased to cancel this rule ?

THE HONOURABLE MR. G. L. CORBETT : (a) Yes.

(b) No. In view of the large loss which Railways are known to incur by passengers entering trains without tickets, Government fully approve the action of the East Indian Railway Administration in withdrawing a privilege obviously liable to abuse.

RECRUITMENT OF INDIAN LABOUR FOR BRAZIL.

34. THE HONOURABLE SAIYAD ALAY NABI : (a) Has the attention of the Government of India been drawn to the article on Indian Labour for Brazil, published in " New India " of July 8th, 1926 ?

(b) Is there any representative of the Brazil Government in India to arrange for the importation of labourers from India for agricultural work in that country ?

(c) Do the Government view with sympathy the efforts of the Brazil Government to import labourers from India ?

(d) Will the Government be pleased to say under what conditions and safeguards they are prepared to permit this recruitment ?

THE HONOURABLE SIR JOHN PERRONET THOMPSON : The attention of the Government of India has been called to the article referred to by the Honourable Member. They have not however received any official proposals on the subject, nor are they aware that a Brazilian emigration representative is in India.

As the Honourable Member is aware, under the terms of section 10 of the Indian Emigration Act, 1922, emigration from India for the purpose of unskilled work, which includes agriculture, can only be permitted to such countries and on such terms and conditions as may be approved by both Houses of the Indian Legislature.

STATEMENT LAID ON THE TABLE.

THE HONOURABLE MR. A. H. LEY : (Industries and Labour Secretary) : Sir, I lay on the table the information which was promised on the 10th February 1926, in reply to the Honourable Sir Dinshaw Wacha's question No. 42 regarding the abandonment of lands under cultivation by canal water owing to the accumulation of heavy alkaline deposits.

There are no alkaline deposits on lands under cultivation by canal water in Bengal, Burmia, Bihar and Orissa, the Central Provinces, Baluchistan and Rajputana. The following table gives the necessary information in respect of the other provinces, viz., Madras, Bombay, the United Provinces, the Punjab, and the North-West Frontier Province.

Province.	District.	Canal.	Area of lands abandoned.	Percentage of the abandoned area on the total irrigated area.	Remedial measures.
Madras ..	Guntur ..	Kistna Delta system.	Acres.	62 ..	The area abandoned on account of alkalinity is an infinitesimal fraction of the total irrigated area in the Presidency, and the stage of alkalinity resulting in the abandonment of land has not made itself manifest. The Madras ryot is acquainted with the means of checking alkalinity and the Agricultural Department has been taking measures to instruct him in the matter. The local Government consider that no special action is necessary.

Province.	District.	Canal.	Area of lands abandoned.	Percentage of the abandoned area on the total irrigated area.	Remedial measures.
Bombay (Deccan and Gujarat).	Ahmed-nagar. Nasik and Ahmed-nagar. Poona ..	Pravara canals Godavari canals Nira Left Bank canal including Shetphal Tank.	Acres. 4,934 12,595 8,249	14.5	The local Government have investigated the question in detail. It is partly a matter of prevention and partly of reclamation. Prevention has proved here not to be difficult. From the beginning, irrigation is restricted to suitable depths of soil. Percolation from the canals is being greatly reduced by puddle trenches in the banks and by concrete or masonry lining in particularly porous strata. Reclamation has proved to be very difficult, however, owing to the character of the Deccan black soil. Successful attempts have been made by drainage which is the only practicable method known. But how far they can be economically applied over the 28,000 acres now out of cultivation is a matter of doubt. A great deal of money and effort has been expended in this matter, first by the Agricultural Department and later by a special Executive Engineer who has been investigating the problem for a number of years. Schemes for draining 3,000 acres of damaged lands have been sanctioned. Some of them have already been completed with satisfactory results, while others are in progress. Further estimates for draining all the easily reclaimable areas are under preparation.
	Poona ..	Mutha canals including Matoba Tank.	2,000		
	Nasik ..	Kadwa canals	161		
	Nasik ..	Girna Left Bank canal.	100		
		Total ..	28,039		
Sind ..	..	..	Not determined.	..	In Sind the areas out of cultivation are in patches, and have not been determined. The questions of prevention and reclamation coalesce, since in an alluvial tract, such as that in Sind, it is usually comparatively easy to wash out the alkaline salts from the soil to a depth where they can no longer do any damage or are likely to rise again to the surface by growing crops, which need a large amount of water. Rice is looked upon as a recuperating crop, and is so, provided the flooding which it requires does not raise the subsoil water above six feet from the surface. If there is any likelihood of this occurring, then drainage of the land is needed, so that any water above six feet deep can drain away. The difficulty in Sind is the provision of this drainage, and this is a matter which is being carefully investigated by the Government of Bombay.

Province.	District.	Canal.	Area of lands abandoned.	Percentage of the abandoned area on the total irrigated area.	Remedial measures.
U. P.	711	0.3	In addition to 711 acre already abandoned on account of the accumulation of alkaline deposits, 80 acres are also likely to be abandoned for similar reasons. Numerous experiments with regard to the treatment of <i>near</i> land were attempted but without success.
Punjab . .	Ambala . .	Western Jumna canal.	250	18.8	It is not possible to give a precise indication of the future progress of damage from alkaline deposits but the matter is receiving the serious attention of Government. The following measures for the reclamation of alkali lands have already been taken, <i>r.iz.:-</i> (i) Experiments on the reclamation of alkali lands were conducted at <i>Narwala</i> on the Lower Chenab canal in 1915 by the Department of Agriculture, Punjab, and they have proved successful. The method adopted was deep cultivation combined with surface flooding and lateral drainage and a very fine yield of wheat was obtained from land so treated. A full description of the <i>Narwala</i> Experiment is given in Appendix II of the Report of the Operations of the Department of Agriculture, Punjab, 1915. (ii) The <i>Bara</i> Farm experiments are described in the Report of the Operations of the Department of Agriculture, Punjab, 1923. (iii) The Chenab Colony experiments are recorded in the Punjab Revenue and Agriculture Department, printed proceedings for January 1913.
	Gujranwala.	Upper & Lower Chenab canals.	9,562	2.6	
	Sheikhpura, Jhang . .	Do.	3,144	0.4	
	Shahpur.	Lower Chenab canal ; Muzaffargarh Inundation canals ; Lower Jhelum canal.	6,746	1.4	
		Lower Jhelum canal ; Upper Jhelum canal ; Shahpur canals.	5,000	0.7	
	Gujrat . .	Upper & Lower Jhelum canals.	9,346	3.0	
	Sialkot . .	Upper Chenab canal.	8,276	178.1	
		Total . .	42,324	0.4	The measures which the Government of the Punjab propose to take for the future in areas threatened by alkaline deposits are as follows :— (a) They will consider the advisability of confining irrigation to the kharif season.

Province.	District.	Canal.	Area of lands abandoned.	Percentage of the abandoned area on the total irrigated area.	Remedial measures.
Bombay (Deccan and Gujarat).	Ahmed-nagar. Nasik and Ahmed-nagar. Poona ..	Pravara canals Godavari canals Nira Loft Bank canal including Shetphal Tank.	Acres. 4,934 12,595 8,249		The local Government have investigated the question in detail. It is partly a matter of prevention and partly of reclamation. Prevention has proved here not to be difficult. From the beginning, irrigation is restricted to suitable depths of soil. Percolation from the canals is being greatly reduced by puddle trenches in the banks and by concrete or masonry lining in particularly porous strata. Reclamation has proved to be very difficult, however, owing to the character of the Deccan black soil. Successful attempts have been made by drainage which is the only practicable method known. But how far they can be economically applied over the 28,000 acres now out of cultivation is a matter of doubt. A great deal of money and effort has been expended in this matter, first by the Agricultural Department and later by a special Executive Engineer who has been investigating the problem for a number of years. Schemes for draining 3,000 acres of damaged lands have been sanctioned. Some of them have already been completed with satisfactory results, while others are in progress. Further estimates for draining all the easily reclaimable areas are under preparation.
	Poona ..	Mutha canals including Matoba Tank.	2,000	14.5	
	Nasik ..	Kadwa canals	161		
	Nasik ..	Girna Left Bank canal.	100		
		Total ..	28,080		
Sind	Not determined.	..	In Sind the areas out of cultivation are in patches, and have not been determined. The questions of prevention and reclamation coalesce, since in an alluvial tract, such as that in Sind, it is usually comparatively, easy to wash out the alkaline salts from the soil to a depth where they can no longer do any damage or are likely to rise again to the surface by growing crops, which need a large amount of water. Rice is looked upon as a recuperating crop, and is so, provided the flooding which it requires does not raise the subsoil water above six feet from the surface. If there is any likelihood of this occurring, then drainage of the land is needed, so that any water above six feet deep can drain away. The difficulty in Sind is the provision of this drainage, and this is a matter which is being carefully investigated by the Government of Bombay.

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Province.	District.	Canal.	Area of land abandoned.	Percentage of the abandoned area on the total irrigated area.	Remedial measures.
Areas.					
Punjab— contd.					<ul style="list-style-type: none"> (b) To free natural drainage lines from obstructions by notifying them as "Drainages" under the Northern India Canal and Drainage Act of 1873. (c) To excavate and maintain by modern methods a scientific system of seepage drains and to deepen existing drains. (d) To encourage irrigation by pumps from wells. (e) To consider the reduction of the intensity of canal irrigation. (f) To conduct a large experiment on mole-drainage under the guidance of Mr. B. H. Wilson, Scientific Research Officer, Irrigation Branch. (g) To instal pumping plant where the country is too flat to allow of drainage by gravitation. (h) To continue scientific research on the subject of alkaline deposits and the allied subject of water-logging.
N. W. F. P.	Peshawar	Kabul River canal.	410	1.01	<p>In the past, a certain number of artificial drains have been constructed and the natural <i>nala</i> have been cleared. Starting with the year 1926-27, a regular programme of drain construction and <i>nala</i> clearance, has been laid down. Care is being taken to restrict supplies to those necessary to mature the crops. In the naturally well drained areas of the Government canals in the province, the cause of their being thrown out of cultivation is due, in a large degree, to the natural drainages having been interrupted by bunds or ploughing over for cultivation by the people themselves. Steps are being taken to notify as "drainages" all such <i>walis</i> in the canal tracts as have not already been so notified, under the Northern India Canal and Drainage Act, 1873.</p>
	Do.	Lower Swat canal.	8,470	5.63	

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

PANEL OF CHAIRMEN.

THE HONOURABLE THE PRESIDENT: I have a Message for the Council from His Excellency the Viceroy and Governor General. The message is in the form of the following Order:—

(The Message was received by the Members standing.)

"In pursuance of the provisions of sub-section (2) of section 63-A of the Government of India Act, I, Edward Frederick Lindley, Baron Irwin, hereby nominate the following Members of the Council of State to be on the panel of Chairmen of the said Council of State:—

In the first place, the Honourable Sir Phiroze Cursetji Sethna; in the second place, the Honourable Sayyid Raza Ali; in the third place, the Honourable Sir S. R. M. Annamali Chettiar; and lastly, the Honourable Mr. John William Anderson Bell."

(Sd). IRWIN,
Viceroy and Governor General.

COMMITTEE ON PETITIONS.

THE HONOURABLE THE PRESIDENT: Under Order 76 of the Council of State Standing Orders, I am required at the commencement of the Session to constitute a Committee on Petitions consisting of a Chairman and four Members. The following Honourable Members have at my request kindly consented to preside over and serve on the Committee. I hereby accordingly have much pleasure in nominating as Chairman of the Committee the Honourable Rai Bahadur Lala Ram Saran Das, and as Members the Honourable Raja Sir Rampal Singh, the Honourable Sir Ebrahim Haroon Jaffer, the Honourable Sir Sankaran Nair and the Honourable Mr. P. C. Desika Chari.

CONGRATULATIONS TO MEMBERS ON HONOURS CONFERRED ON THEM.

THE HONOURABLE THE PRESIDENT: Before we proceed with the further business of the Session I should like to refer to some events which have happened since we last met. It is not only because it is according to precedent but because it also affords me great pleasure that I refer to the Honours List which appeared last month. It was a remarkable list and one in which I think I may safely say the Council of State has figured to an extent which it has never enjoyed in any previous list. It is hardly necessary for me to remind the Council that the Honourable Sir Alexander Muddiman was not only its President for four years, but he was actually the first Member of the first Council of State, and we are all ready, I am sure, to offer him our heartiest congratulations on the high honour which the distinction with which he has carried on his labours in another place has recently earned for him. (Applause.) We have also to congratulate the Honourable Sir John Perronet Thompson,—(Applause).—Political Secretary, on the Knight Commandership of the Most Eminent Order of the Indian Empire so recently conferred on him. We tender our congratulations to two new Knights of the House, the Honourable Sir Phiroze Sethna and the Honourable Sir Ebrahim Haroon Jaffer, (Applause), and I would like also in this connection to mention the Knighthood which has been conferred on Sir Lalubhai Samaldas, who was until very recently a colleague of ours.

[The President.]

The Honourable Saiyid Raza Ali, who deserted us for a short time but has come back to-day, has also gained an honour. We here, I think, feel some pride in the fact that he was selected for an important mission and that he helped to bring that mission to such a happy issue. (Applause.) He has also been selected for a high office though we regret in this connection that we shall be losing his services here after the end of this Session. I would mention also his colleague in the mission to South Africa who also has received an honour and who was with us for some considerable period in this Council. We congratulate also the Honourable Maulvi Abdul Karim on the title of Khan Bahadur which has been conferred on him.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : (Education, Health and Lands Member) : Sir, it gives me very great pleasure indeed to identify myself wholeheartedly with the motion which you, Sir, have made, offering to the various recipients of Honours who have appeared in the last Honours Gazette our hearty congratulations on their well-earned distinctions.

It is indeed a very happy augury for the future, I take it, that in every Honours List in the future our colleagues in this House may probably appear in large numbers. Into the merits of each of the recipients it is, I take it, unnecessary for me to enter, but whether officials or non-officials, the names that you have now mentioned to this House are names which command respect not only in official circles but in non-official circles as well. As regards the non-officials I may mention that they are well known figures in the life of India and I think they have well deserved the distinctions. Now, Sir, I cannot refrain from singling out one particular person on this occasion, for you have also very rightly added your own commendation to the valuable services rendered by him in connection with a mission which was fraught with the greatest difficulties. I refer to my Honourable friend Saiyid Raza Ali. He was deputed to South Africa to help the cause of Indians in that Colony. That is a matter which comes within my portfolio, and I can assure him, on my behalf and on behalf of the Government of India as well, that his services in that direction deserve special mention. I therefore wholeheartedly identify myself with what you have said.

THE HONOURABLE SIR EBRAHIM HAROON JAFFER : (Bombay Presidency: Muhammadan) : Sir, I find it extremely difficult to say how profoundly touched I feel by the very flattering words in which you, Sir, have referred to the honour recently conferred by His Majesty the King-Emperor on Members of this House hailing from Bombay. Surely, I am not vain enough to regard the honour as a matter for personal gratification and look upon it first as a gesture of recognition of the place this House occupies in the constitutional machinery of India, secondly, as a welcome tribute to the Bombay Presidency which I have the honour to represent here, for the contribution that Province has been making to the progress of this country, and, thirdly, as an indication of the apparent consciousness of the importance of the great community which has sent me to this House. Sir, I am sincerely grateful to you for the very kind and generous language in which you have offered me congratulations, and I only hope I shall prove worthy of the honour which has been done to me.

THE HONOURABLE SIR JOHN PERRONET THOMPSON : (Political Secretary) : I am very sensible, Sir, of the distinction you have added to the honour which His Majesty has conferred on me by your mention of it in this House. I am deeply grateful to my fellow members of this Council for their congratulations. I am convinced that they are sincere. I could wish they were deserved.

THE HONOURABLE SAIYID RAZA ALI : (United Provinces, East : Muhammadan) : I beg to offer to you, Sir, and to the Leader of the House my deep sense of gratitude for the terms in which you, Sir, and the Honourable Sir Muhammad Habibullah have spoken of the conferment of the honour on me by His Majesty the King-Emperor. I am deeply grateful to my Honourable colleagues for the manner in which they have responded to the references made. This is no occasion for making a speech, but I may just be allowed to refer to one small incident. I shall ever be proud of the six years during which I have been connected with this Chamber. I can say without betraying a secret that in 1923 I had the offer of unopposed return to the other place, but so strong is my attachment to this House that I refused to avail myself of that honour. I am deeply grateful to all my colleagues.

THE HONOURABLE KHAN BAHADUR MAULVI ABDUL KARIM : (East Bengal : Muhammadan) : I beg to thank the Honourable President of this Honourable House for kindly making a reference to the distinction which His Excellency the Governor General has been pleased to confer on me in recognition of my services not of course in this Council, as I am yet a junior Member of this Council, but in connection with my services as President of a District Council.

DEATH OF RAJA PRAMADA NATH ROY OF DIGHAPATIA.

THE HONOURABLE THE PRESIDENT :- Since the House last met, it has suffered a loss in the death of Raja Pramada Nath Roy of Dighapatia. The Honourable Raja was possibly not known to some Members here, as latterly ill-health prevented him from regular attendance at the meetings of the Council. I propose to the Council that I be authorised to convey to the relatives of the deceased Raja our deep sympathy with them in the loss they have sustained.

GOVERNOR GENERAL'S ASSENT TO BILLS.

THE SECRETARY OF THE COUNCIL : Sir, information has been received that His Excellency the Governor General has been pleased to grant his assent to the following Bills :—

- The Small Cause Courts (Attachment of Immoveable Property) Act, 1926.
- The Government Trading Taxation Act, 1926.
- The Guardians and Wards (Amendment) Act, 1926.
- The Code of Criminal Procedure (Amendment) Act, 1926.
- The Indian Lunacy (Amendment) Act, 1926.
- The Code of Civil Procedure (Amendment) Act, 1926.
- The Indian Naturalisation Act, 1926.
- The Steel Industry (Amendment) Act, 1926.
- The Insolvency (Amendment) Act, 1926.

[The Secretary.]

The Code of Criminal Procedure (Second Amendment) Act, 1926.
 The Promissory Notes (Stamp) Act, 1926.
 The Contempt of Courts Act, 1926.
 The Indian Registration (Amendment) Act, 1926.
 The Madras Civil Courts (Amendment) Act, 1926.
 The Legal Practitioners (Amendment) Act, 1926.
 The Indian Trade Unions Act, 1926.
 The Indian Tariff (Amendment) Act, 1926.
 The Madras Civil Courts (Second Amendment) Act, 1926.
 The Indian Finance Act, 1926.
 The Cotton Industry (Statistics) Act, 1926.
 The Legal Practitioners (Fees) Act, 1926.
 The Code of Civil Procedure (Second Amendment) Act, 1926.
 The Delhi Joint Water Board Act, 1926.
 The Indian Income-tax (Amendment) Act, 1926.
 The Indian Divorce (Amendment) Act, 1926.
 The Indian Factories (Amendment) Act, 1926.
 The Transfer of Property (Amendment) Act, 1926.

**RESOLUTION RE PAY OF THE MINISTERIAL ESTABLISHMENT OF
 THE MADRAS CUSTOM HOUSE.**

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : I beg to move the Resolution which stands in my name and which runs as follows :—

“ This Council recommends to the Governor General in Council that the ministerial establishment of the Madras Custom House may be granted the same scale of pay as is granted to the ministerial staff in the Bombay and Calcutta Custom Houses, or, in the alternative, that the ministerial staff in the Madras Custom House may be granted the same scale of pay as the ministerial staff of the Accountant General's Office, Madras, or other ministerial departments in Madras under the direct control of the Government of India.”

Sir, I hesitated a good deal before sending in a Resolution of this kind, because I thought that the time of the highest Council in the British Indian Empire ought not to be taken up very often with questions concerning the detailed working of the subordinate staff of the various departments, but I hope, by a short statement, to convince the House that the sad plight of the clerks of the Madras Custom House is grave enough to secure the sympathy and support of this House in their efforts to get a living wage. The proposition which I have brought forward for the consideration of this House is self-expressive, and it does not require very much elucidation. But I should like to point out at the outset before going into the details of the Resolution that the principles regulating the pay and prospects of the superior services have been set aside and a new set of principles and startling propositions have been laid down in fixing the scale of pay of the various ministerial establishments, and especially of this unfortunate class of clerks in the Madras Custom

House. The main principle which has been enunciated by the Public Services Commission as regards the pay and prospects of the services is this, that servants of Government should be given wages which would secure to them a living with such dignity and comfort as would keep them above all temptations and which would also keep them efficient throughout the period of their service. I believe, with some modifications and making allowance for the degree of comfort and for the degree of dignity which is required for the subordinate staff, this principle can very well be applied to the subordinate staff. In the words of Sir Thomas Holland, the crucial test of any service is whether the rates of pay and prospects are satisfactory, irrespective of the system that provided them. I shall crave the indulgence of the House to state the principles which have been enunciated, of course not in any broad propositions, but as we find them here and there in G. O's. and in the reports dealing with the scale and revision of pay of this particular office. The main consideration which induced the Central Board of Revenue, I believe under the orders of the Finance Department, in dealing with the question of the scale of pay has been that the pay of these clerks ought to be regulated according to the conditions of labour and the conditions of recruitment in the particular province. Here I find it is too late in the day to lay down a proposition of this kind and to act upon the principle enunciated in this proposition, that wages ought to be regulated according to the conditions of labour. Now, Sir, what have you got in Madras ? The system of education in Madras, as in several other places in India, has been such as to send out vast hordes of young men who are qualified only for the clerical profession. No doubt, recently attempts are being made to improve the system of education, but, as it is, we have to take note of the fact that the system of education which has been prevalent for decades and decades has been solely to train up numbers of young men for clerkships and make them bear the hardest burden in the various ministerial establishments. But having created such a situation, having created a field for recruitment, is it fair on the part of the departments concerned or on the part of the heads of a civilized Government to take advantage of the conditions of recruitment which they themselves have created in this particular province ? Of all the provinces in India, Madras is a place where there are certain classes of people who do not have much to lean back upon excepting by eking out their livelihood as clerks, and this is the principle which I wish to attack, and which I say ought not to find acceptance in any civilized system of administration. With these remarks I shall proceed to the details of the proposition which I wish to place before the House for its acceptance.

The first portion of the Resolution says that the ministerial establishment of the Madras Custom House may be granted the same scale of pay as is granted to the ministerial staff in the Bombay and Calcutta Custom Houses. To any unprejudiced observer it will be self-evident that people doing the same sort of work and turning out the same quantity of work and of the same standard ought to be paid the same scale of pay. It does not require much of an explanation to make this proposition acceptable to the House. Here are the clerks of the Madras Custom House who have been recruited to work out the details of the Customs law and procedure in every day life in the Customs Department; so also in the Calcutta and Bombay Custom Houses the ministerial

[Mr. P. C. Desika Chari.]

establishment is made to do the same sort of work, and I fail to see why the scale of pay given to the Madras clerks who do the same class of work as those employed in the Bombay and Calcutta Custom Houses should be different, unless you are prepared to attach any weight to the principle on which the scale of pay is fixed. Is it not uncharitable to say that because people are available on a small scale of pay they should be paid only low salaries ? Is it not as uncharitable as to say that the usurer is entitled to his usurious rate of interest because the debtor in his sad condition is obliged to accept a loan on those terms ? Here, ofcourse, we have to take note of the fact that the efficiency and the general educational qualification of the Madras Custom House clerk is not inferior to those employed in the sister offices in any other seaport town in the various parts of India. That is the first consideration that ought to weigh in fixing the scale of pay in the various Custom Houses.

My second reason for asking that the scale of pay for the Madras customs clerks may be fixed with reference to the scale of pay in the Bombay and Calcutta Custom Houses is this. There is a fallacy prevailing that the cost of living in Madras is cheaper. Madras City may be unostentatious ; it may look simple enough, but to those who have lived in Madras, who have seen the conditions in Madras and other capital cities of India, I would say that Madras is as expensive as any other capital city of India. I have got facts and figures from the Supplement to the Gazette of India and I would refer to the statistics published on the 12th July 1924 in that Supplement to the Gazette of India as regards the price of commodities or important foodstuffs, namely, rice, ghee, salt and oil. I have taken out only the necessary figures and on a comparison I find that for ten maunds of every one of these articles the cost in Madras is Rs. 237.28, whereas in Bombay it is Rs. 233.68 for ten maunds of each of these articles. And then another necessary commodity is clothing. Ofcourse the price of foreign imported cloth is practically the same in all places, with a little difference, and people in Calcutta and Bombay have got the further advantage of living in an area which produces cloth and where they can get some little reduction in the price of cloth. Perhaps the wholesale prices may be less, but the retail prices may be the same as in other Presidency-towns. If at all, in Bombay you can get clothing cheaper. You may say perhaps that rent is higher in Bombay, but while that may be true with reference to the conditions prior to 1912, after 1912, the history of assessments in Madras City will show that rents have more than trebled after 1912. Though the buildings and the tenements may look dark, gloomy, and perhaps uninhabitable, the rents charged for them are exorbitant and there is no Rent Restriction Act or any such thing operating in Madras. And then, even assuming there is any little difference, it is more than eaten up by heavy conveyance charges which even a poor clerk has to meet in going to his office. Everybody knows Madras is a city of dearth and distances and it is very expensive to have a conveyance of the meanest kind. (*The Honourable Sayyid Raza Ali* : What about bicycles ?) I will come to the question of bicycles whether these people can afford to have a bicycle or even a toy bicycle. I am much obliged to my friend who has put that question because I am in a position to state without fear of contradiction that the class of clerks for whom I am pleading can never dream of owning a cycle without running into debt which they can never hope

to repay. That is the condition of the clerks for whom I am pleading. I am pleading for a class of clerks who start on Rs. 40 now, and, according to the revised scale which has been sanctioned recently, it takes 30 years for them to reach the magnificent scale of Rs. 90, that is to get Rs. 3 a day. That is the sort of clerk for whom I am asking your sympathy and support. I certainly would not have come forward with a Resolution if these people were given a scale of pay which was enough to purchase a bicycle.

It is necessary for me to give some of the details of the scale of pay which is prevalent or was until very recently, and the revised scale of pay, as a result of the Government of India's policy, which has been granted to them recently. Under the scale of pay for this class at the time, before the revised scale was granted very recently which has not come into operation yet under the old scale, there were 136 clerks, of whom 125 were permanent and 11 were temporarily employed for postal appraising purposes. Altogether there were 136 clerks and all of them have been confirmed. Before the revision which has just been given to these people, out of 136 clerks, 80 were in the lowest grade, that is 40—40—1½—55—1—65. That is they have to remain for two years on Rs. 40 then go on step by step to increase their emoluments, if they please their superiors, to the magnificent figure of Rs. 55; and here Government think they have got too much when they have come to Rs. 55, and so they have reduced their increment to Re. 1 till they get to Rs. 65. That is, they take 22 years to reach Rs. 65 from Rs. 40. That is the state of affairs with 80 out of 136 clerks. Thirty clerks get from Rs. 65 to Rs. 85, 18 clerks get from Rs. 85 to Rs. 125, and there are besides 6 Deputy Superintendents and 3 Superintendents. Now, in answer to a question put by the Honourable Dr. Rao in the last Session of the Council of State, the Finance Secretary was pleased to say that the Government have decided on an improved scale of pay. Those are his very words. I naturally thought there would be some improvement in the scale. But, instead of that, what do I find? Instead of there being an improvement it was a retrograde scale. Because out of 136 clerks the revised scale places 109 clerks, as many as 80 per cent. of them, in the Rs. 40—2—80—1—90 grade, so that they take away the benefit which this class had under the old grade of having a larger percentage in the Rs. 65 to 85 grade and the Rs. 85 to Rs. 125 grade. All these have not been benefited. And even those people who are getting Rs. 4 increments are to get only Re. 1 per annum hereafter. And then, besides the 80 per cent. 13 per cent. of the clerks are placed in what is called the Selection Grade of Rs. 70—3—85—4—125. And then we have got the balance of 7 to 8 per cent. as Superintendents and Deputy Superintendents, with reference to whom there has been no revision at all. It will be clear that the revised scale, which was given and which the Finance Secretary characterised as an improved scale, is certainly a retrograde scale, taking away the benefits which these poor clerks had under the old scheme. What they had was taken away by the new scale and these clerks of the Custom House are the most obedient set of people and people who never think of saying anything contrary to the orders which are passed. Fortunately, they have Fundamental Rule 23 under which they can take shelter against the so-called revised scale. One and all of the clerks have said they would be better off under the old scale, and they have preferred to remain under the old scale. That is the condition of affairs.

[Mr. P. C. Desika Chari.]

The scale of pay given to the Bombay Custom House clerks is not very alluring. I will not call it a living wage but only 12 NOON. a starvation wage, at least in the lower grades. I hope that that scale of pay at least may be given to these Madras clerks.

The second alternative which I propose is this. A scale of pay has been sanctioned for various Departments in Madras like the Accountant-General's Office, the Post Office, the Postal Audit Office and the Currency Office. If the conditions peculiar to Madras are to be taken into account, then the conditions must be similar to those of the clerks doing work in the other offices under the control of the Government of India in Madras itself, so that, if the first proposition is not acceptable to Government, the second at least should be acceptable to them. In support of this I would say that the general qualifications required of entrants to the Madras Custom House office and the general qualifications of incumbents in these other offices are practically the same. I do not think it can be said that the work of the Madras Custom House is less onerous than the work turned out by the clerks of the various other Departments which I have mentioned in Madras itself, and which are under the direct control of the Government of India. Added to this there is this further fact that the work of the Custom House clerk is more exacting and requires a great deal of tact in dealing with the public and they have to work at great pressure to satisfy the daily needs of the merchant public. They must close their work almost every day. That is the sort of work they are called upon to do and at the very outset of their career these clerks of the Custom House are required to pass a very stiff test in Customs law and procedure and the various Commercial Acts connected with it, and they are expected to have at their fingers' ends the system of complicated tariffs so that they can safeguard the customs revenue. They are actually employed in responsible positions and I would say that the nature of the work turned out by the Custom House clerk is more onerous than that turned out in the other Departments, like the Post Office and the Accountant General's Office, because very often these clerks come in possession of very valuable documents like shipper's books and papers, bill of lading, invoices and other documents which require prompt attention. Very often these people have to collect dues and have to be acquainted with the general working of the various tariffs, the general appraising of the various articles to general and specific duties, the different valuations, the classifications under the various headings as regards commodities and various other things. Many of these clerks are required to collect dues like the light dues, penalties and other things which require a high degree of honesty and business capacity. In these circumstances, I think the Custom House clerk is entitled at least to as good treatment as the other clerks in the Accountant General's Office and the Post Office. This is as regards the nature of the work. I do not want to belittle the importance of the work turned out by the other offices, but it is enough for my purpose if I show that the work turned out in the Madras Custom House is not inferior to that turned out by the clerks of the other Departments in the corresponding grades. So I submit that I have made out a case for giving the clerks of the Madras Custom House a scale of pay which is if not a living wage at least a starvation wage. That is what I am asking for.

That is what has been given to the Bombay and Calcutta clerks. Is it too much for me to ask that these poor clerks of the Custom House, who have been driven at one time or other in their lives to eke out their livelihood in the Custom House of Madras, should be given the same treatment as is given to clerks in other offices? Is it their special misfortune that the nature of this Department, namely, its being a chief revenue earning Department, should be a stumbling block to their earning a pittance, a wage which I would call a starvation wage? I do not ask for them any of those comforts which would be justified to them if the principles enunciated by the Public Services Commission are applied to these clerks. I am only asking for a living wage for them. If no argument is necessary to ask for a living wage, if it is conceded that in sanctioning the scale of pay in Bombay and Calcutta something barely approaching a living wage has been given, is it too much for me to ask that these poor clerks of the Madras Custom House, bent under the weight of debts, depressed and care worn, illclad and miserable looking owing to their hopeless and pitiable condition, should be improved in the light of recommendations which have been made by officials on the spot, by successive Collectors? From 1914 onwards successive Collectors have recommended a grade of pay for these clerks. I suppose they knew the conditions elsewhere. I am only asking the Government of India to give effect to these recommendations. If the Honourable Member in charge of this Resolution on behalf of the Treasury Benches is inclined to think that I am exaggerating the case in any way, I would request him to take the Council of State into his confidence and read the description of the condition of the clerks contained in the representations made by the Collector and more especially the latest representation made by the Collector as regards the condition of these clerks and as regards the conditions under which he has to carry on the administration. With these words, Sir, I move this Resolution for your acceptance.

THE HONOURABLE MR. J. E. C. JUKES (Finance Secretary): Sir, I regret that the Government are unable to accept this Resolution. As the Honourable Member has told us, the pay of the ministerial establishments of the Madras Custom House was revised last year. I am not sure that the Honourable Member has entirely done justice to that revision when he stated that it did not constitute an improvement. So far as the lower division of the staff are concerned, at any rate, I do not see how he can possibly deny that an increase of the increment from Rs. 1½ to Rs. 2 and the maximum from Rs. 65 to Rs. 90 is an improvement. I still say in the words of my predecessor that considerable improvement has been given. The Honourable Member suggested that at the time when this revision was decided upon a definite principle as regards the pay of these staffs was accepted by Government. He is quite right. In making their proposals for the revision of pay, which were actually the result of a most careful and detailed examination of the rates of pay in the Customs Houses all over India, the Central Board of Revenue did examine very carefully the question of the principle which should be followed in fixing the pay of staffs of this kind. The principle which was finally adopted, with the cordial approval of the Government, was approximately such as the Honourable Member has described. The Government held that the main consideration in matters of this kind must be the rates of pay given to similar grades of clerical labour by the Local Government within whose territories the staffs are serving.

[Mr. J. E. C. Jukes.]

I am afraid, Sir, that Government cannot agree to abandon this principle in favour of either of the principles suggested by the Honourable Mover. Government cannot consent either to give the same rates of pay to all establishments performing the same duties, in whatever part of India they may be serving, or to give the same rates of pay to all the establishments serving in one place, whatever the nature of their duties. In both cases, it will be noticed, the Honourable Member proposes to level up rather than level down. He would give to the Madras establishments either the highest rate of pay given to similar establishments in other parts of India or the highest rate of pay given to the establishments under the control of the Central Government in Madras itself. The adoption of either of these courses would be grossly unfair to the tax-payer and would occasion considerable embarrassment to the Local Governments. In spite, Sir, of what the Honourable Member has told us, I do not think that Members of this House generally will be prepared to admit that the cost of living in Madras is as great as the cost of living in Bombay and Calcutta. Government, at any rate, are not prepared to accept this, and I think it is quite plain from the rates of pay which the Madras Government give that they themselves will not be prepared to accept it. Provided that we do give a reasonable living wage, we must in justice to the tax-payer refuse to raise our rates above the level which will suffice to attract the class of candidates required. As a test of a minimum wage, common prudence dictates that we should accept the figures adopted by the Local Government, which is in a far better position than the Government of India, or even an inhabitant of Burma, to say what is the cost of living in its own headquarter town. As a test of attractiveness, we are entitled to rely upon our own experience and the experience of the Local Government, and we have had no difficulty in attracting suitable recruits on the rates actually fixed. Indeed, as the Honourable Member suggests, we have in actual practice been getting recruits of higher educational qualifications than we really require. But on one thing I must insist and that is that it would be the height of folly to enter upon a competition in this matter with the Local Government. If either Government attempted to outbid the other by fixing higher rates of pay, the results would be nothing but ruinous. It would simply result in raising the prices of labour of this kind against both the Governments concerned. The Honourable Member's second alternative principle was to give the same rates of pay to all central establishments in Madras irrespective of their duties. At least I understand that this was his intention. As a matter of fact we are really doing exactly what he asks us to do by his Resolution, seeing that the rates of pay of the Customs staff are practically identical with those of the income-tax and salt establishments which are, in the words of the Resolution, ministerial establishments under the direct control of the Government of India. We cannot, however, consent to fix the pay of the Customs establishment at the level which has been fixed for the office of the Accountant General. A far higher standard of education is required for that office, which actually performs very different duties. It shoulders far higher responsibility. It is the source of recruitment for the whole of the Assistant Accountants officers, which bear the same relation to the Indian Audit and Accounts Service as a Provincial Service bears to the all-India Services. Finally, it is the actual source from which no insignificant proportion of the Indian Audit and

Accounts Service is ultimately drawn. The two staffs therefore stand on an entirely different footing. It is for this reason that, while we pay the Customs establishments at rates which are based upon the rates given by the Local Government to the office of heads of provincial departments, we base the pay of the audit staff upon the standard adopted for the Provincial Secretariat. I do not propose, Sir, to take this Council through a detailed examination of the duties of the various other establishments in Madras with which the Honourable Mover has compared the duties of the Customs establishments. Any such examination would be entirely beside the question. Government have definitely decided, upon the advice of the Central Board of Revenue, that they do not require for their Customs establishments clerks of higher calibre than are employed in the offices of the heads of provincial departments. Even, therefore, if the Honourable Member could prove to the hilt, and I doubt whether he could, that the duties of the Customs establishments are precisely the same as the duties of the other establishments which he has mentioned, all that he would be doing would be to establish an invincible case for reducing the pay of the other offices ; and I imagine that this is hardly his intention.

There is another point to which I desire to refer before resuming my seat and that is the fact mentioned by the Honourable Member that the establishment concerned has at present taken advantage of the very benevolent provision of Fundamental Rule 23 in order to refuse for the time being to accept the new rates of pay. The Honourable Member has suggested that they have refused entirely. That is indeed one of the options which is given by Fundamental Rule 23. That rule gives, however, another concession. It allows any officer the pay of whose post has been changed to defer the acceptance of the new scale. It very frequently happens, in a very large number of instances, that clerks will benefit very greatly by deferring the acceptance of the new scale until they have reached one or more higher increments on the existing scale. I suggest that it is just possible that there is one other reason why the clerks concerned have not up to now accepted the new scale. It seems to me not entirely impossible that they were aware of a Resolution on the subject coming on and they thought that it might strengthen the hands of their champion if they postponed accepting the new scale. In view of the Honourable Member's intimate acquaintance with a great deal of the correspondence which has taken place, it seems to me that this may be one additional reason for their action. I have nothing more to say. I oppose the Resolution.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : The Honourable Member who has just spoken on behalf of the Government has drawn attention to the recent revision of the scale of pay of these subordinates in Madras. He has also drawn our serious attention to the great embarrassment which such increase in the emoluments of the subordinates would cause to the Government concerned. But, Sir, I feel that, in spite of what he has said, he has not succeeded in making out a justification for the invidious distinction which exists in the emoluments of the Calcutta and Bombay Customs Offices on the one hand and the Madras Customs Offices on the other. Sir, far from establishing any such justification, he has, though not in as many words but in effect, conceded the contention of my Honourable friend Mr. Desika Chari.

[Saiyed Mohamed Padahah.]

My Honourable friend Mr. Desika Chari has proved that there is not much difference either in the nature of the work done or in the amount of efficiency shown by clerks employed in the Custom Houses in the different seaports town in India. Now, Sir, it does not stand to reason that people placed in charge of the same offices and engaged to do the same kind of duties should be given different scales of pay. Unless, therefore, there is really some difference either in the nature of the work performed or in the amount of efficiency shown by the clerks, we shall not be justified in making these invidious distinctions, whatever might be our difficulties, financial or otherwise. Sir, apart from all these inconveniences and hardship that this differentiation causes to the unfortunate staff employed in the Madras Custom House, the fact is patent enough that, so long as they are denied their due living wage, we will be running the risk of making the ministerial establishment in the Madras Custom House discontented, and it will also cause heart burning and jealousy, with the result that they will not be able to discharge their duties properly and satisfactorily. Therefore, Sir, I whole-heartedly support the Resolution moved by my Honourable friend Mr. Desika Chari.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, I support and oppose the Resolution. I support the Resolution because the Honourable the Mover has said that the scale of pay in all the departments which he has mentioned should be made equal, and I think he is quite right there, because the higher salaries in some of the departments should be reduced and brought down to the level of salaries paid in Madras. Though Madras is in a different corner of the Indian continent and has a different nationality, there is one thing, and that is, that conditions all over the world are generally the same, and what I have seen is that the salaries of employees in some of the departments are increased to such a great extent that sometimes there is very little money left for more useful objects.

The reason why I oppose this Resolution is this, that every Province has got its own means, and I think everybody should cut his coat according to the length of his cloth and each province should have its own way to pay its staff according to local conditions. For this reason, I oppose this Resolution.

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, the Honourable Mr. Jukes was pleased to say that the Government of India, on the recommendations of the Central Board of Revenue, have been pleased to accord a magnificent revised scale of pay to the Madras Custom House clerks, and he wanted to impress upon this Council that they have begun in the lowest cadre at the rate of half a rupee extra for a year during the period of 20 years. But he has not touched upon the other aspect that the higher grades have been so amalgamated with the lowest that even the benefits of these people in the shape of 4 rupee increments after a certain stage have been taken away. That is one thing. But if the amalgamation of the two cadres had not been carried out, there would have been possibly some vacancies, and I believe there will be 4 vacancies a year in the upper scale, and some of these people can go up ; but all these privileges have been denied to them, and after all under the old cadre they could go up to at least Rs. 125. Now, only 12 per cent. of these appointments are reserved for the selection grade, where one can get Rs. 125 if he is

fortunate enough and if he lives for the full period of thirty years, which is highly problematical, taking into consideration the depressed state of this class of people and the conditions under which they live.

Then the Honourable Mr. Jukes said that he is not in favour of setting up a competition between the Local Government scale and the scale of these establishments in Madras, and he has been waxing eloquent about the importance of the work which the clerks in the Accountant General's Office have got to do. Is he or is he not aware of the nature of the work turned out by the Custom House clerks? I believe I have explained to the House in some detail the nature of the work which the clerks in the Madras Custom House have got to do. They have to do not only the work of auditing or that of an accountant, but they have also to do the work of a person who is fully acquainted with the details of tariffs and with the various details of commercial enactments like the Merchant Shipping Act and various other enactments. Does he for one moment mean to say that the clerks in the lowest cadre in the Accountant General's Office do much more onerous work than the clerks in the Madras Custom House? I think his statement cannot hold water in the light of the work which these people have got to do. Then again he has alluded to only one office. There is the Post Office. Are the clerks in the Post Office doing anything extraordinary? Are they doing the same class of work which can be said to stand comparison with the sort of work which is done by the clerks in the Custom House in Madras? Is it fair on the part of the Government to come forward and say, "Well, clerks of the Accountant General's Office do a different kind of work, and so the others are not entitled to the same scale of pay"? I am only submitting that if the cadre of these people is equal having regard to the nature of the work which these people are doing in the corresponding offices, the same scale of pay ought to prevail. If the local conditions are similar, then the scale of pay also should be identical, because all these people are living in Madras.

He said according to the information of the Government—I do not know what Government is meant, I do not know if it is not the Government which has published the statistics, which has published the statements of prices in the Supplement to the Government of India Gazette—I do not believe that, when my Honourable friend said the Government are not aware of the fact that Madras is as expensive as several of the important cities, the Government to which he referred is a different Government to the Government that published the Supplement to the Government of India Gazette and the figures which are given there. If my Honourable friend wants it—I do not think it is necessary for me to take up the time of the Council—I will only give the pages if necessary for my Honourable friend to look for the necessary information as regards the expensiveness of Madras as compared with Calcutta and Bombay with regard to the necessary commodities. Honourable Members will find the information in the Supplement to the Gazette of India of the 12th July to which I have already referred, and in the 1922-23 Supplements, statistics were also published to show that, in respect of these essential commodities, Madras is costlier than either Bombay or Calcutta. I challenge the Honourable Mr. Jukes to show that Madras is not costlier than any of those places in accordance with these figures.

[Mr. P. C. Desika Chari.]

I would refer to the Postal Committee's Report as regards the expensiveness of Madras when compared with other towns. You will find in the Postal Committee's Report that Madras is not less expensive than any important centres. And then the Honourable Mr. Jukes has been waxing eloquent as regards the unfairness to the Indian tax-payer. I believe I can say with some amount of confidence that I have also got some feeling for the Indian tax-payer because I am one of them. If I do not feel for others in the same way as the Honourable Mr. Jukes feels for the Indian tax-payer, whom he unburdens of some of his excess wealth, I say that there is nothing unfair in giving a living wage to the poorest class of clerks. No tax-payer would grudge him that. If only the tax-payer had the necessary voice the defects would have been rectified long long ago, the moment it had been brought forward. Here I can understand the stand which has been taken by the Honourable Mr. Jukes because he is conscious of the strength of the Treasury Benches of this Council. This reminds me of what some of my friends in the other House told me the other day in regard to this Resolution. They told me,—I do not know if it is necessary for me to go into details—that I need not expect much of a success. But I am confident that the Honourable Members of this House will belie a statement like that and will show that they are capable of doing justice, they are capable of feeling for the poorest class of persons who are asking for a starvation wage, if not a living wage ; that is what I am asking you to consider.

Then the Local Government's scale was very much appreciated by the Honourable Mr. Jukes in the course of his reply. I will tell you what the Local Government scale means. The Local Government scale was fixed with reference to the report of what is called the Salaries Committee. A gentleman who has been trained in that school I believe is the Secretary of this Central Board of Revenue. This Salaries Committee fixed the pay of these poor clerks with reference to jail dietary and famine rations. I would request my Honourable friend, the Honourable Mr. Jukes, to have a look at the Salaries Committee's Report, from which he will find that the salaries of these Madras clerks have been fixed from the data taken from the famine rations, data taken from jail dietary. There may be after all some justification for the Local Government not to pay a living wage. Does one wrong and one precedent of a wrong make another wrong a right ? I ask in all fairness is the Honourable Mr. Jukes prepared to defend the view that, if the Local Government's scale is fixed upon famine rations and jail dietary upon insufficient data, upon unfair standards, having regard to the wholesale prices of foodstuffs and of certain of the commodities which are beyond the reach of these poor clerks, if the Local Government's scale is based upon such a report of the Salaries Committee, the Government of India should follow suit in the case of the clerks who help to earn an ever increasing and ever productive revenue in a revenue-earning department ? Then, there may be some justification for the Local Government of Madras in giving this impoverished scale. Having fared very badly under the Reforms they have worked the Reforms in the best spirit. They, like other provinces, have been allotted rigid and fixed sources of revenue; whereas the Government of India have ever increasing sources of revenue. Are they going to stand

a comparison, are they going to base their expenses on a scale which the Local Government in its poor condition of revenue has been obliged to adopt? Is it fair on the part of the Government of India to compare themselves with this poor Local Government of Madras with its restricted resources? And then I will come to my Honourable friend's remarks about the income-tax and salt establishments. Yes, there have been memorials sent up from these establishments. I would say there is this difference between the income-tax clerks and the salt office clerks, because they are only 15 or 20 in number in each of these establishments and these clerks have got very many opportunities of promotion in the various grades which are very liberally paid in the higher grades, whereas these poor Custom House clerks have been denied all chances of promotion. So things are different. If the Central Board of Revenue has been tardy in recognising the just demands of the income-tax and salt establishments, is it a reason for opposing the just demands of another establishment? I believe the income-tax and salt establishments are to get an improved scale of pay too and that will be coming in after the scale of pay is fixed for this unfortunate department.

Then, my Honourable friend has been saying a good deal about office correspondence and all that sort of thing. What is there in my speech to show that there is anything about office correspondence? There is a *Customs Chronicle* dealing with this Customs Department with the object of securing them a living wage and a system of easy employment. Has this Honourable gentleman ever looked into the pages of this publication, which is intended mainly if not solely for the perusal of Members like him? I suppose not; otherwise he would not have said that these people of the Madras Custom House have chosen to refuse the new scale because they knew their cause would be championed here by a person who hails from Burma.

Then, as regards the differential scale of pay in the different departments, my Honourable friend has not dealt with other departments like the Post Office and other offices where the nature of the work is not different and where it cannot be said to be more onerous than the work turned out in the Custom House. After all, I am sorry that the Honourable Mr. Jukes has not taken this Council into his confidence by reading out the Collector's latest representation.

THE HONOURABLE THE PRESIDENT: I must point out to the Honourable Member that he has exhausted his time.

(The Honourable Mr. P. C. D. Chari then resumed his seat.)

THE HONOURABLE MR. J. E. C. JUKES: Sir, I will detain the House a few moments only and that because, and only because, the Honourable Member has put to me two or three specific questions. For the rest, as far as I could follow him, he employed only arguments which I have already met. The two questions which he asked me were these. First, whether I knew the nature of the work in the Custom House, Madras. I am happy to reply to him in the affirmative, and to repeat what I said before, that the work of these clerks does not in any way compare with the work of the Accountant General's Office. He also twitted me with having dealt with the Accountant General's Office only and not with the various other offices in Madras. I took the case of the Accountant General's Office because it was the office which the Honourable Member

[Mr. J. C. E. Jukes.]

himself mentioned in his Resolution. As regards the other offices, what I said before still holds, that even if their work is identical with that of the Custom House the only result of the Honourable Member's argument is that their pay should be reduced and not that the pay of the Custom House clerks should be raised.

The only other point on which I should like to add one or two words is as regards the expensiveness of living in Madras. As regards the cost of living in Madras I am quite prepared to accept the views of the Madras Government, and I am not prepared to accept the view of the Honourable Member, which merely amounts to this, that he is definitely accusing the Madras Government in this House of sweating their clerical labour. If an accusation of that kind is to be made at all, it should be made in the Madras Council and not in the Council of State.

THE HONOURABLE THE PRESIDENT : The question is :

"That the following Resolution be adopted :

'This Council recommends to the Governor General in Council that the ministerial establishment of the Madras Custom House may be granted the same scale of pay as is granted to the ministerial staff in the Bombay and Calcutta Custom Houses or, in the alternative, that the ministerial staff in the Madras Custom House may be granted the same scale of pay as the ministerial staff of the Accountant General's Office, Madras, or other ministerial departments in Madras under the direct control of the Government of India.'"

The motion was negatived.

RESOLUTION *re* THE CO-OPERATIVE MOVEMENT IN INDIA.

THE HONOURABLE SIR EBRAHIM HAROON JAFFER (Bombay Presidency : Muhammadan) : Sir, the Resolution I propose to move reads as follows :

"This Council recommends to the Governor General in Council that an inquiry should be made into the development and the present position of the co-operative movement in India with a view to ascertain in what direction expansion and improvement are necessary."

Sir, let me begin by trying to remove from the minds of Honourable Members a possible misconception, if any such exists, as regards the object and the scope of my Resolution. At first sight it is likely to appear that this House is not a proper place for the discussion of the co-operative movement, which is the subject matter of the Resolution, inasmuch as it is a transferred subject and, as such, ought to be taken up in a local Legislature. As will be made clear in a few moments, I have not the least desire to trench upon the domain of Provincial Governments and Legislatures and wish to urge on the Central Government the desirability of undertaking an enquiry which it alone is competent to initiate and carry through usefully. In this connection I venture to express the opinion that, though we are all so jealous of such provincial autonomy as has been secured to the different parts of the country and are anxious to obtain more of it, this fact does not by any means absolve the Government of India from its obligation to perform functions of all-India importance, particularly of co-ordination. It is true that each Province has its own natural, social and economic peculiarities and must face its problems in a manner

best suited to its special conditions and requirements. An attempt to bring about centralization and uniformity or the adoption of a policy and measures which are calculated to produce such a result, would, it is obvious, be futile and mischievous. Though poverty and rural indebtedness are common to all parts of the country, and co-operation has, therefore, to face the same fundamental problem everywhere, it may be argued with apparent cogency that each Province cannot but pursue its own line of development in finding appropriate solutions for the difficulties with which it is confronted and the tasks which its special conditions impose. All the same, a little reflection will show that there is incalculable advantage to be gained from a comparative and a comprehensive review of the position which the co-operative movement has reached in the different Provinces so that the latter may learn, take warning and receive inspiration from one another and the movement as a whole may advance along correct lines of development. The co-operative movement started and thrrove under the fostering care and supervision of the Government of India though its practical working was rightly left to the Provinces ; and though these latter are now responsible for its progress, it would be too much to expect them each to set about the kind of investigation which can best be undertaken by the Central Government. Under the modified constitution which we now have in India there is always the risk of provincial isolation and narrowness, and the only corrective to this tendency will be for the Government of India to step in and render the necessary help.

That this principle is acceptable to Government themselves is clear from the fact that another provincial and transferred subject, namely, Agriculture, has been entrusted to a Royal Commission for investigation. Nothing can be more local and restricted in its nature and scope than agriculture, but the Government of India have always and systematically kept themselves in touch with the condition and development of that vital industry in all parts of the country without interfering with the responsibilities and the powers of the Provinces. The Agricultural Department of each Province is now carefully and patiently looking after the needs of its farmers and cultivators and doing everything possible to encourage improved methods and organization in that industry. Yet the tremendous importance of the basic industry to the well-being of the population has led Government to the conviction that a comprehensive enquiry is necessary to enable proper steps being taken to ensure the progress of agriculture in all parts of the country. I dare say that the relation of the co-operative movement to agriculture and the part it is playing in improving the lot of the cultivator, will be a subject that will be gone into by the Royal Commission on Agriculture. It should, however, be borne in mind that co-operation is no longer confined to agricultural credit, production and marketing and that the movement in India has now expanded itself into other paths such as non-agricultural industries, housing and consumption. The Royal Commission on Agriculture can, therefore, properly handle only one aspect of that great movement though I admit it is an important aspect. The point I want to make is that the co-operative movement is so intimately bound up with the lives and well-being of the mass of the people of India that it is a fit subject for the attention of the Central Government and for an inquiry at their hands. The proposed investigation may be entrusted to a small committee of experts and others who are in daily touch with the

[Sir Muhammad Habibullah.]

official gentlemen who have been giving their time, their energy, their brain, towards the accomplishment of this object with the very satisfactory results which have been produced within the brief span of five years ? If there is any need for an inquiry, I would ask each Province to search its own heart and ascertain for himself whether all that is expected of the co-operative movement within its own area has been accomplished or whether there are still any *laches* on the part of those who are working this department, and then decide for itself whether this is an opportune time for the conduct of an investigation. I shall certainly welcome any Province undertaking such an investigation. Indeed, only the other day the United Provinces installed a similar Committee of which my Honourable friend Mr. Misra was the Secretary, and they have issued a very valuable document in the shape of a report. If other Provinces feel the need for it, they are by all means welcome to do so. But what I would contend, and respectfully contend, is that this is not a question in which the Government of India could interfere—did I not say they have no right to interfere ? They cannot take the initiative in the matter. They cannot compel the Provinces to do a thing which they have the right to do themselves. Is it therefore wise—will it serve any useful purpose therefore—if the Government of India should accept this Resolution ? Will they be within their rights to do so ; will they not be paying a very poor compliment to the Provinces, which, as the facts prove, have done their best in the interests of the co-operative movement within their respective areas, by telling them that we are absolutely dissatisfied with what they have done in the past, that we feel the machinery has not been working as well as we expect, and we therefore feel the need for the establishment of a Committee which will go into the whole question and find out what are the causes that retard this machinery and what should therefore be done to accelerate the pace and how best to cater to the interests of the co-operative movement in India ? And, lastly, my Honourable friend has himself referred to the fact that in the terms of reference which we have made to the Agricultural Commission which will soon begin its operations, we have definitely referred this question of the co-operative movement for investigation. He brushed it away with a remark that it concerns the agriculturist only, and asked, what about the rest ? But will my Honourable friend deny that the agriculturists constitute nearly 80 per cent. of the population of British India and that, therefore, when this Commission is going to solve the problem in regard to the prosperity of 80 per cent. of the people, can it be said that it is trifling work ? Well, it is perfectly conceivable that, when this Royal Commission is making its investigation into the question, it may traverse the ground as much as it may like. It may make helpful discoveries ; it may make very useful recommendations which may probably be of great advantage not merely to the Province concerned but even to the Government of India, to determine whether there is any need for proceeding further with investigations beyond what the Royal Commission had done. For all these reasons, Sir, I think the House will be well advised not to accept this Resolution because it is, in the first place, not within the rights of the Government of India and, in the second place, no case has been made out at this stage for any investigation into the working of the department which facts and figures show has done remarkably well and which is entitled to our congratulations.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, There can be no two agriculturists, who would not thank the Honourable Member for bringing up this Resolution. Being myself an agriculturist, I am very thankful to the Mover. Up to the time when this co-operative movement was started we thought that 80 per cent. of the population of the agriculturists was not considered by the administration that they were even living in this country. But, since this help has been afforded by the Government, we are thankful. At the same time, it came so late and the amount of money that was given was so small in the beginning that, though on paper it might be now shown that a great deal has been done, if you go and consider how many people there are in this country living on agriculture and compare the numbers put forward by the Leader of the House with the whole population of 36 crores of people, it is only then that you will be able to see how backward this movement is. My friend, the mover, when speaking of co-operation, I think meant co-operation in a higher sense also. He meant not only co-operative banks. He meant that these various provinces which are working separately should co-operate between themselves and see how things are going on. I think that was at the bottom of this Resolution that my friend has brought before this Council.

Then, Sir, even science tells us that nothing in this world is lost. So, I think this Resolution also, though some of those who are not zemindars may not vote in its favour, will serve its purpose. We are thankful to the Honourable Member in charge who has already said that he will write to the various Provinces and make inquiries. Up to an extent what the Mover of the Resolution has asked for has been met and, when the Agricultural Commission comes, it will be practically a commission of inquiry into the same subject, because, people, especially the agriculturists, cannot improve their lot when they have got no money. You might suggest to an agriculturist that such and such a plough is useful and that such and such a good breed of cattle is useful, but when he has got no money, what is he going to do about it ? We who are in rural areas see how things are happening around us. We see, Sir, that the lands of poor zemindars are mortgaged. There is no money in these co-operative banks, so that land producing, say, one thousand rupees may be mortgaged for only a small sum, and the owner has not got money to redeem the mortgage. Again, Sir, there are many requirements for which a zemindar wants money and the existing banks have not got sufficient funds to help him. We see things as they are. We do not see these papers and the statistics which are put forward to-day. These do not help us in the least when we want money and cannot get it. That is my contention.

It has been said that this does not concern the Central Government. I may say if Provincial Governments have not got money, they cannot very well use it. If all the money which is in England in sinking funds were brought here and put into these banks, that money would not be lost because Government are responsible and the money would come back with interest. At the same time, there will be more money here to go round. So, Sir, where there is a will, there is a way, and I think that if, like our friend, we go on knocking at the door, the chance is that it will some day open. When 80 per cent. of the people of India are the cause of the Empire being so

[Sir Umar Hayat Khan.]

termed it is an Imperial question. I think the House and the country and the world know that it was the zemindar class who came forward and fought in the World War, and were, I think, to a great extent a factor in winning the war. So I think it is an Empire question also that these people should be helped by the Central Government. I am glad, Sir, that the Resolution before us does not ask for a Committee but only asks for an inquiry so that people may not object that we are asking for so many Committees and that the Mover also has asked for another Committee. We in the Punjab have felt the need for money for the zemindars so much that we have only recently passed a law dealing with the relations between the agriculturists and money-lenders. I know of a particular case in which a man brought a scythe to cut his produce and afterwards, to pay that money, he had to sell all his land with the crops for which he bought the scythe. This law which has been passed there will no doubt bring some relief. Under the circumstances the money-lenders may not lend money sufficiently and it will be for the advantage of the Province in particular that there should be more money forthcoming from the Central revenues, in the shape of these banks when they may be able to replace entirely the money-lender by these banks.

Then, Sir, there is an Arabic saying "Alqarz miqraz-ul-muhabbat" which means that the relations between the money-lender and the man who borrows generally cannot always remain cordial. We have seen troubles between the two communities in various places and it will be very much better from that point of view if, instead of borrowing from one particular community, we could borrow from our own banks. So, this question, though I cannot say it is of world wide importance, is of greater Imperial importance than anything else. For these reasons, Sir, I will ask the House at any rate to support the underlying principle of the Resolution brought forward by my Honourable friend.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, the object of the Honourable Mover of the Resolution is a very noble one and I think it ought to have our general support. But in the face of the facts explained by the Honourable the Leader of the House I would suggest that the subject matter of this Resolution be referred to the Royal Commission on Agriculture, and for that purpose, Sir, in case I am permitted, I wish to move an amendment in the form

"That this Council recommends to the Governor General in Council that the Royal Commission on Agriculture be asked to inquire, etc."

"That this matter may be referred to the Royal Commission on Agriculture to inquire into the development and the present position of the co-operative movement with a view to ascertain in what direction expansion and improvement are necessary."

I think, Sir, that by that the noble object behind the Mover's Resolution will be served.

THE HONOURABLE THE PRESIDENT : I am afraid I am not quite able to follow the amendment proposed by the Honourable Member.

(The Honourable Rai Bahadur Lala Ram Saran Das then handed in his amendment to the Honourable the President.)

THE HONOURABLE THE PRESIDENT : The Honourable Member has simply handed me certain words. How does he propose to fit them in to the Resolution?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : My amendment will run thus:

"This Council recommends to the Governor General in Council that the question of an inquiry into the development and the present position of the co-operative movement in India with a view to ascertain in what direction expansion and improvement are necessary be referred to the Royal Commission on Agriculture."

THE HONOURABLE THE PRESIDENT : The Honourable Member desires to move that?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Yes, Sir.

THE HONOURABLE THE PRESIDENT : I think the amendment amounts to a radical change in the scope of the Resolution. The bald inquiry which the Resolution asks for is a very different thing from a proposal to alter the terms of reference to a Royal Commission. I am afraid I cannot allow the Honourable Member to move that as an amendment to the substantive Resolution.

THE HONOURABLE LALA RAM SARAN DAS : In that case I might say that the subject matter of this Resolution may be referred to the Royal Commission on Agriculture.

THE HONOURABLE THE PRESIDENT : I have already said that the Honourable Member would not be in order in proposing it.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, I entirely agree with the Honourable Nawab Malik Sir Umar Hyat Khan that our thanks are due to the Honourable Sir Ebrahim Haroon Jaffer in having drawn the attention of the Council to an important question of this character. I should also say that I have very attentively listened to the lucid statement made by the Honourable Sir Muhammad Habibullah to whom our hearts go out in deep sympathy in his sad bereavement which took place last month. Sir Muhammad has spoken under the shadow of a great domestic blow, but the fervour and the enthusiasm with which he has spoken are an earnest that whatever might be the magnitude of his domestic worries his devotion to duty will continue unabated. Sir, the marshalling of facts as made by the Honourable the Leader of the House leaves no room for doubt that, laudable as undoubtedly the object of the Mover of the Resolution is, there is hardly any scope, having regard to the improvement that has taken place in co-operation between the years 1919 and 1924, for an inquiry being instituted at this stage. That the Provinces are doing all they can, the subject being a transferred one, is borne out by the facts and figures adduced before this Council by the Honourable the Leader of the House. Then it seems there is a desire on the part of certain Members of this Council, again a very praiseworthy desire, that more attention should be paid to this subject than has been the case in the past. I do not claim that intimate knowledge of the subject which is possessed by the Honourable Sir Ebrahim Haroon Jaffer. It may be that more can possibly be done than has been done in the past, but we must remember that the subject matter had already been specifically referred to the Royal Commission on Agriculture. Sub-clause (c) of the terms of reference to the Royal Commission says that it will be the duty of the Royal Commission "to investigate in particular into the methods by which agricultural operations are financed and credit afforded to agriculturists."

[Saiyid Raza Ali.]

The words are surely wide enough to include expansion and improvement of co-operation. I think that, quite apart from the very convincing arguments brought forward by the Honourable Sir Muhammad Habibullah, the reference of the subject matter to the Royal Commission has already taken the wind out of the sails of the Honourable Mover. My friendly advice to him under the circumstances would be to wait till the Royal Commission has had time to inquire into the whole thing and submit its report. When the report is published, the Honourable Mover will be in a position to find out whether the Royal Commission has given that attention and that care to this subject which he expected from it. If he thinks that the finding of the Royal Commission is disappointing, it would surely be open to him to bring forward this motion again and then undoubtedly he will find support in this Council, to the Members of which the subject is very near and dear. In the circumstances it is simply impossible to ask the Government of India to embark on a fresh investigation and to ask the Provinces to let the Government of India know in what directions expansion may be required. I therefore suggest to the Honourable Member that he should withdraw his Resolution to-day, and it will surely be open to him, if necessary, to bring forward the subject again after the publication of the Royal Commission's Report.

THE HONOURABLE SIR EBRAHIM HAROON JAFFER : I have listened with great attention to the speech of my Honourable friend, Sir Muhammad Habibullah. He has pointed out the good work that the Provinces have done in the past. I have never said a word that their work is unsatisfactory. I only asked if there was not room for further improvement and expansion. What has the co-operative movement done for labour ? There is a great deal more that can be done for labour. Is there no great necessity of development of urban banking as most towns cannot be reached by joint stock banks ? Have there been no failures in the different Provinces in the matter of co-operative stores and so on ? I quite appreciate the difficulties in the way of my friend. I have no desire to place any obstacle in his path by pressing my Resolution any further if I can help it. May I ask the Honourable Member whether he can assure me that he will send the proceedings of this debate to the several Provinces with a direction to let the Government of India know whether they will agree to such an inquiry as is proposed in my Resolution. Is he prepared to do so ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : Sir, I am able to give him the assurance that I will certainly communicate a copy of the proceedings of to-day to the various Provinces. He is asking me too much, or rather he is asking me to accept this Resolution in an indirect form when he asks me to inquire from the Local Governments whether they will agree to this inquiry. I regret I cannot do that.

THE HONOURABLE SIR EBRAHIM HAROON JAFFER : Under the circumstances I think my purpose is so far served. I accept the assurance of my Honourable friend on behalf of the Government, and, as suggested by the Honourable Saiyid Raza Ali, I shall await the Report of the Agricultural Commission and, if need be, I shall bring forward this subject again. With these words, I would request leave to withdraw this Resolution.

The Resolution was, by leave of the Council, withdrawn.

The Council then adjourned till Eleven of the Clock, on Thursday, the 19th August 1926.

COUNCIL OF STATE.

Thursday, the 19th August 1926.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

INDIAN EVIDENCE (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS: (Law Member), Sir, I move for leave to introduce a Bill further to amend the Indian Evidence Act, 1872, for a certain purpose.

This is a Bill introduced with a view to give effect to a recommendation of the Civil Justice Committee. Under section 68 of the Indian Evidence Act as at present enacted, if a document has been attested, an attesting witness has to be called to prove it if the attesting witness is alive and is available. The object of this amending Bill is to provide that if the document is registered, it is not necessary to call an attesting witness unless the attestation for execution is expressly denied.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS: I introduce the Bill.

ADMINISTRATOR GENERAL'S (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS: (Law Member): Sir, I move for leave to introduce a Bill further to amend the Administrator General's Act,

Under the Administrator General's Act, 1913, the Administrator General has power when a person dies leaving assets to the value of Rs. 1,000, to grant a certificate to a claimant entitling him to receive the assets and he is not under any obligation to take out letters of administration or a succession certificate. The Civil Justice Committee recommended that the power of the Administrator General in that respect should be increased so as to entitle him to give a certificate in the case of assets to the value of Rs. 3,000. The Government, after taking the views of Local Governments and other authorities, are now introducing this Bill increasing the limit to Rs. 2,000, that is to say, if a person dies leaving assets to the value of Rs. 2,000 or less, then it would not be necessary for the claimant to go to Court and take out letters of administration or a succession certificate, but he can go to the Administrator General and get his certificate and thereafter collect the assets.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS: I introduce the Bill.

INDIAN COMPANIES (AMENDMENT) BILL.

THE HONOURABLE MR. G. L. CORBETT: (Commerce Secretary): Sir, I move for leave to introduce a Bill further to amend the Indian Companies Act, 1913, for a certain purpose.

This small Bill inserts a single word in section 26 of the Indian Companies Act, 1913. This section enables an association formed for charitable or other similar purposes and not for profit to be registered without the addition of the word "Limited" to its name. Doubts have been expressed whether the section as now worded covers associations formed for religious purposes. The object of the Bill is to remove this doubt.

The motion was adopted.

THE HONOURABLE MR. G. L. CORBETT: I introduce the Bill.

SIND COURTS (SUPPLEMENTARY).

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce a Bill to supplement the Sind Courts Act.

A measure has recently been enacted in the Bombay Legislative Council with the object of promoting the status of the Court of the Commissioner of Sind to that of a Chief Court. Certain formal changes in the Acts of the Governor General in Council are consequently necessary. These effect the necessary change in the designation of the Court. These years in an Act of the Governor General in Council. This is the object of the Bill which I now ask for leave to introduce.

The motion was adopted.

THE HONOURABLE MR. J. CRERAR: Sir, I introduce the Bill.

CANTONMENTS (AMENDMENT) BILL.

HIS EXCELLENCE THE COMMANDER-IN-CHIEF: Sir, I move to introduce a Bill further to amend the Cantonments Act, 1924, for certain purposes.

The objects for which these amendments are introduced are fully set forth in the Statement of Objects and Reasons appended to the Bill, which is in the possession of all the Members of the House, and I would, therefore, not detain the House with any remarks.

The motion was adopted.

HIS EXCELLENCE THE COMMANDER-IN-CHIEF: I introduce the Bill.

INDIAN LIMITATION (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I move for leave to introduce a Bill further to amend the Indian Limitation Act, 1908, for certain purposes. The Civil Justice Committee recommended *inter alia*—

"that the proviso to sub-section (1) of section 20 should be amended so as to make the payment of interest also subject to the condition that the fact of payment should appear in the handwriting of the person making the same."

At the present moment, under the Limitation Act, it is only in the case of part payment of the principal that the part payment has to be in the handwriting of the person making the same. The Civil Justice Committee recommended that that rule should apply also in the case of payment of interest.

They also recommended :

" that limited owners under the Hindu law, and the *Karta* or manager of a joint Hindu family should be enabled to make acknowledgments and payments under sections 19 and 20 ;

that article 132 should be amended so as to make it clear that a suit to recover the value of paddy and such like produce charged on immoveable property comes within this article ; and

that article 186 should be amended so as to make it clear that it applies to a petition by a judgment debtor under section 47 of the Code of Civil Procedure, 1908."

The object of this Bill is to give effect to these recommendations.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS : I introduce the Bill.

HINDU FAMILY TRANSACTIONS BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move for leave to introduce a Bill to provide that partitions and separations of interest among members of Hindu undivided families and other transactions among persons governed by Hindu law shall, in certain cases, be effected by written and registered instruments.

Bill gives effect to certain recommendations of the Civil Justice Committee. That Committee recommended that in the case of a joint Hindu family, if the value of the immoveable property belonging to it exceeds Rs. 1,000, no separation of interest so as to make the members of the family or any of them cease to be undivided should be effected otherwise than by a registered instrument, whether any actual division of property be or be not made or agreed on in connection therewith : and that no partition of the whole or any part of the immoveable property belonging to such family should be valid unless the same be made by registered instrument, but that exception from these requirements should be permitted in the case of any decree or order of a Court, and any instruments of partition made by a Revenue Officer. The Committee also recommended that Local Governments should be empowered to prescribe rules for valuation for this purpose, and that in the case of persons governed by the Hindu Law, surrenders by a widow, a release by a co-parcener, family settlements, and grants of maintenance should be effected only by a registered instrument, if immoveable property of the value of more than Rs. 100 is effected thereby. As the Civil Justice Committee pointed out in their Report, these are matters which leave room for a great deal of conflict of evidence and take up a great deal of the time of the Courts, and they have suggested that all these transactions should be effected by registered instruments. The object of the Bill is to give effect to these recommendations.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS : Sir, I introduce the Bill.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member) : Sir, Monday, the 23rd, is a non-official day, and the business ballotted for that day has already been communicated to Honourable Members. On Tuesday, the 24th, a statement will be made by the Honourable the Law Member on the subject of the League of Nations, and motions will be made for the considering and passing of all the Bills introduced to-day, with the exception of the Hindu Family Transactions Bill, about which a motion will be made for circulation for eliciting opinions. It is also hoped that on that day a number of Bills will be laid on the table after passage in another place. On Wednesday, the 25th, the Honourable Mr. Jukes will move his Resolution regarding the Report of the Indian Taxation Enquiry Committee.

The Council then adjourned till Eleven of the Clock on Monday, the 23rd August, 1926.

COUNCIL OF STATE.

Monday, the 23rd August, 1926.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

MEMBER SWORN:

The Honourable Mr. Kumar Sankar Roy Choudhuri (East Bengal: Non-Muhammadan).

QUESTIONS AND ANSWERS.

ARTICLE ENTITLED "INDIANISATION WITH A VENGEANCE" PUBLISHED IN THE MODERN REVIEW.

35. THE HONOURABLE RAI NALININATH SETT BAHADUR: Has the attention of the Government of India been drawn to an article published at page 499 of the April number of the *Modern Review* under the caption "Indianisation with a vengeance"?

THE HONOURABLE MR. J. CRERAR: Government have seen the article. RESERVATION OF APPOINTMENTS FOR EUROPEAN OFFICERS ON THE CIVIL SIDE OF THE INDIAN MEDICAL SERVICE.

36. THE HONOURABLE RAI NALININATH SETT BAHADUR: (a) Is it a fact that a decision has been finally taken to reserve for Europeans 236 out of 292 appointments in the Indian Medical Service on the civil side?

(b) If the answer to (a) be in the affirmative, will the Government be pleased to state the reasons for such decision?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: (a) No. The matter is under consideration.

(b) Does not arise.

RECRUITMENT OF INDIANS AS ASSISTANT EXECUTIVE ENGINEERS.

37. THE HONOURABLE RAI NALININATH SETT BAHADUR: (a) Is it a fact that of the nine proposed recruits to the cadre of Assistant Executive Engineers, save and except one Burman, no Indian is to be selected?

(b) If the answer to (a) be in the affirmative, will the Government be pleased to state the reasons for such decision?

THE HONOURABLE MR. A. H. LEY: (a) The answer is in the negative. The anticipated recruitment for the Indian Service of Engineers this year is 6 European Assistant Executive Engineers in England and 12 Indian Assistant Executive Engineers in India.

(b) Does not arise.

OMISSION OF THE MEMBERS OF THE CENTRAL AND PROVINCIAL LEGISLATURES FROM THE WARRANT OF PRECEDENCE.

38. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that before 1921 the members of different Legislative Councils had a position in the King's Warrant of Precedence and that, in the revised Warrant of Precedence brought up to date to 1st July 1921, the members of the Indian Legislature and the other Legislative Councillors do not re-appear in the revised list issued on 1st July 1921 ? Will Government kindly state what has led to this change ?

THE HONOURABLE MR. J. CRERAR : Yes. The reason is that it was desired to treat Members of the Central and Provincial Legislatures in India in exactly the same way as Members of the House of Commons in England who have as such no precedence. The Warrant is primarily intended to regulate the position of officials holding appointments in India, and the inclusion in it of Members of the pre-reform Councils was a relic of the position under which such Members were persons added to the Executive Council when it met for legislative purposes.

RESOLUTION OF THE GOVERNMENT OF BENGAL REGARDING THE PLAYING OF MUSIC ON PUBLIC ROADS.

39. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state whether, before issuing its Resolution of 5th June 1926 on the playing of music on public roads, the Bengal Government obtained the previous approval of the Government of India ?

THE HONOURABLE MR. J. CRERAR : Yes.

RELIGIOUS PROCESSIONS WITH THE ACCOMPANIMENT OF MUSIC ON THE PUBLIC HIGHWAYS.

40. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Has any correspondence passed between the Government of India and the Bengal Government on the question of taking processions on public roads with the accompaniment of music ? If so, will they place that correspondence on the table of this Council ?

THE HONOURABLE MR. J. CRERAR : No such correspondence has taken place between the Government of Bengal and the Government of India.

RELIGIOUS PROCESSIONS WITH THE ACCOMPANIMENT OF MUSIC ON THE PUBLIC HIGHWAYS.

41. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that the practice of taking processions with the accompaniment of music on the public roads of Indian cities exists in this country from times immemorial and that all communities exercise this right without any obstruction from other communities ?

THE HONOURABLE MR. J. CRERAR : Government are aware that the practice of taking processions with the accompaniment of music on the public highways is an ancient one and recognise the right of every citizen to use the public highways for such processions in the manner established by custom and tradition, but the exercise of this right is subject to the exercise of similar rights by others and to any orders passed in the public interest by competent authority.

RELIGIOUS PROCESSIONS WITH THE ACCOMPANIMENT OF MUSIC ON THE PUBLIC HIGHWAYS.

42. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state whether they have arrived at any decision regarding the future policy of Government in connection with processions with accompaniment of music on the public roads ?

THE HONOURABLE MR. J. CRERAR : I would invite the Honourable Member's attention to the speech recently delivered by His Excellency the Viceroy at the Chelmsford Club, and his address to the Indian Legislature on the 17th instant, in which the attitude and policy of Government are explained.

SUPPLY OF ARTIFICIAL GHEE OR COCOGEM TO THE INDIAN ARMY.

43. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that the military authorities do not allow the supply of artificial ghee, vegetable compounds or Cocogem to the Indian Army ? If so, will they state the reasons ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The answer is in the affirmative.

As a result of exhaustive experiments it has been found that metabolism is affected by the presence, or absence, not only of the normal protein carbohydrate, and fat content of a diet, but also by accessory food factors,—popularly known as vitamins.

Vitamin A contains the anti-rachitic element, which is essential to physical growth. Ghee contains this vitamin in considerable quantities. Vegetable oils, such as Cocogem, do not contain it, except perhaps in traces negligible for practical purposes.

It is not thought desirable to deprive the Indian soldier of an article which contains substances essential to his growth and physical fitness, in favour of one which does not, and which would probably be much less acceptable to him than the article to which he has been accustomed from childhood.

ACTION TAKEN ON THE RESOLUTION REGARDING AN IMPORT DUTY ON ARTIFICIAL GHEE.

44. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will Government kindly state what action they have taken on my Ghee Resolution moved in this Council in the last Session ? Has any correspondence passed between the Central Government and the various Provincial Governments and administrations on this subject ? If so, will they kindly place a copy of that correspondence on the table of this Council ?

THE HONOURABLE MR. G. L. CORBETT : In accordance with the undertaking given in this House by the Honourable the Commerce Member, a copy of the debate was duly forwarded to all Local Governments. There has been no correspondence with the Local Governments and Administrations on the subject.

CHEMICAL COMPOSITION AND NUTRITIVE VALUE OF ARTIFICIAL GHEE AND COCOGEM.

45. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that artificial ghee, vegetable compounds and Cocogem have been chemically examined ? If so, will the Government state the chemical

composition of these products ? Will they also explain what is the nutritive value of these artificial ghee products ? How does this nutritive value compare with the nutritive value of natural ghee ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : As the Honourable Member is aware, Public Health is a provincial transferred subject, and the chemical analysis, from the health point of view, of the articles mentioned by him is not primarily the concern of the Government of India. I am, however, having enquiries made as to what has been done to ascertain the chemical contents and nutritive qualities of vegetable compounds like Cocogem.

CONSTRUCTION OF THE HAVELI IRRIGATION PROJECT IN THE PUNJAB.

46. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will Government kindly state whether they have given sanction to the construction of the Havelian Irrigation Project in the Punjab ? Will they kindly state in what stage the project is at present and what time will it take to mature ?

THE HONOURABLE MR. A. H. LEY : Presumably the Honourable Member refers to the Haveli Project—a scheme for a weir on the Chenab, below its junction with the Jhelum, with canals on either side. The Government of the Punjab submitted this project to the Government of India in 1915, but the latter were unable to accept it as then put forward, and the Local Government were informed of the lines on which the project should be revised. The revised project has not yet been submitted to the Government of India, but it is understood that it is under preparation by the Local Government. Government are not, therefore, in a position to say when the project is likely to mature.

THE THAL IRRIGATION PROJECT, ETC.

47. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state what stage the Thal Irrigation Project in the Punjab has at present reached ? Has any decision been arrived at in the dispute between the Punjab and Bombay Governments regarding the sharing of the waters of the river Indus ? Has the discharge of the Indus taken by the Punjab Irrigation engineers at various times of the year during the last five years been found to be correct ? If not, what are the correct figures of discharge ?

THE HONOURABLE MR. A. H. LEY : For the answers to the first and second parts of the question, the Honourable Member is referred to the reply given on the 18th August to question No. 9 by the Honourable Nawab Sahabzada Sayad Muhammad Mehr Shah. Government are not at present in a position to give definite replies to the remaining parts of the question. The data collected by the local engineers in the Punjab and Sind regarding the supplies of the Indus have recently been submitted to the Consulting Engineer to the Government of India, and will shortly be considered by a committee of technical experts.

NEW RAILWAY PROJECTS.

48. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what new railway projects have been sanctioned for construction since the close of the last Session of the Indian Legislature? Will the Government kindly give the mileage of each construction, its gauge and estimated cost?

THE HONOURABLE MR. G. L. CORBETT: A statement giving the information asked for is being sent to the Honourable Member.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: May I know in what stage is the proposal to extend the railway line from Mangalore along the West Coast?

THE HONOURABLE MR. G. L. CORBETT: I am afraid I must ask for notice of that question.

DELAY IN THE DISPOSAL OF LEAVE APPLICATIONS OF VILLAGE POSTAL PEONS.

49. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that the leave applications of village postal peons are not sanctioned for months together? Will the Government kindly state what proposals they have under consideration to expedite the disposal of these applications?

THE HONOURABLE MR. A. H. LEY: Government are not aware of the fact alleged. I would ask the Honourable Member to inform the Director-General what particular Circles he has in mind where the alleged delay is general.

The second part of the question does not arise.

INSUFFICIENT NUMBER OF SORTERS IN THE LAHORE POST OFFICE.

50. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that in big stations like Lahore insufficient sorters are employed in the Sorting Office, with the result that the delivery of mails is delayed very much? Have the Government under consideration any proposals to increase the staff of sorters where necessary?

THE HONOURABLE MR. A. H. LEY: The answer to both parts of the question is in the negative.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Are the Government aware that in the city of Madras there are only two deliveries, whereas a few months ago there were six to eight deliveries. This is causing great inconvenience to the public?

THE HONOURABLE MR. A. H. LEY: I fail to understand how that arises from the question under reply.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: The question relates to big stations like Lahore, and Madras is also a big station.

THE HONOURABLE MR. A. H. LEY: If the Honourable Member will put the question down, I will have it examined by the Director General, Posts and Telegraphs. But I understand that the sorters are sufficient.

LATEST HOUR FOR POSTING LETTERS IN THE LAHORE POST OFFICE.

51. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that, in the Lahore Post Office, at one time the latest time for posting letters was 8 P.M., then it was fixed at 7-30 P.M., later on at 7 P.M., and now it is 6-30 P.M.? Is this continuous curtailment in the time for posting letters due to shortage in the number of sorters in the Lahore Post Office? Are the Government aware that this procedure causes grave inconvenience to the public? Will Government do something to remove the complaint of the public in this matter?

THE HONOURABLE MR. A. H. LEY: The reply to the first part of the question is in the affirmative. 6-30 P.M. has been the time of last clearance since 1924; for ten years prior to that year, it was 7 P.M. Letters can be posted after 6-30 P.M. in the train letter box with a late fee of half an anna. The changes in the latest time of posting were not due to shortage in the number of sorters.

Government have received no complaint on the subject and are not aware that the existing arrangements cause any inconvenience to the public.

DELIVERY STAMPS ON POSTCARDS.

52. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Are the Government aware that the postal authorities very often place the post-mark on the writing half of postcards and thereby render the writing unreadable? Will Government consider the advisability of kindly issuing instructions to the effect that postcards should be stamped only on the portion not reserved for writing purposes?

THE HONOURABLE MR. A. H. LEY: From tests made it has been found that the delivery stamp is sometimes, but not often, impressed on the left half of a postcard.

The matter is being brought to the notice of the Director-General who is being asked to take the action suggested by the Honourable Member.

RECOMMENDATIONS OF THE STATE RAILWAYS WORKSHOPS COMMITTEE.

53. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what decision has been arrived at on the recommendations of the State Railways Workshops Committee?

THE HONOURABLE MR. G. L. CORBETT: The recommendations of the Committee, relating to improvements in the internal organisation of all mechanical workshops, such as, scheduling of repair operations and the introduction of planning and progress departments in the more important workshops, have been accepted by the Railway Board, and the State-worked Railways have been instructed to give effect to them. Certain other specific recommendations relating to the extension or reduction of workshops, are also being given effect to. The remaining recommendations are still under consideration as many of them require further examination.

RULES FOR RECRUITMENT TO THE RAILWAY SENIOR SUBORDINATE SERVICES.

54. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that so far no rules have been framed for recruitment to the Railway

senior subordinate services ? Will Government kindly state when they propose to frame rules for these services ? If such rules have been framed, will they kindly lay them on the table of this Council ?

THE HONOURABLE MR. G. L. CORBETT : No rules have yet been formed. The matter is under the consideration of Government.

LEAVE RESERVE POSTS IN THE OFFICER GRADES OF THE STATE RAILWAYS ESTABLISHMENTS.

55. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state what is at present the number of leave reserve posts in the officer grades of each of the State Railways in India ? Is it a fact that these leave reserve posts in the different State Railways are not all filled up ? Will the Government kindly state how many out of these leave reserve posts are actually filled up in each railway system ? Have the Government under consideration any proposal to fill up all these posts ?

THE HONOURABLE MR. G. L. CORBETT : The present leave reserves in the officer grades of State Railways establishment are as follows :

North Western Railway	..	..	..	25
Eastern Bengal Railway	..	..	..	12
East Indian Railway	..	..	..	12
Great Indian Peninsula Railway	..	..	..	18

These posts are not left unfilled.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it not a fact that on the North Western Railway all the posts in the leave reserve are not filled up ?

THE HONOURABLE MR. G. L. CORBETT : I am informed that they are filled.

REDUCTION OF THE RAILWAY FREIGHT ON LIQUID FUEL.

56. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Are the Government aware that the railway freight on liquid fuel is very heavy ? Are the Government reducing this rate of freight ?

THE HONOURABLE MR. G. L. CORBETT : Government are not aware that the railway freight on liquid fuel is very heavy, but Railways are being asked to examine the existing rates and to consider whether any reduction is necessary or advisable.

NUMBER OF INDIAN AND ANGLO-INDIAN TRAFFIC INSPECTORS (TRANSPORTATION) ON THE NORTH WESTERN RAILWAY, THE OUDH AND ROHILKHAND SECTION OF THE EAST INDIAN RAILWAY AND THE EASTERN BENGAL RAILWAY.

57. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly place on the table of this Council a statement showing the number (a) of Indian, and (b) of Anglo-Indian Traffic Inspectors (Transportation), employed on the North Western Railway, the Oudh and Rohilkhand section of the East Indian Railway and the Eastern Bengal Railway, respectively, in April 1923, April 1924, April 1925, and April 1926 ?

THE HONOURABLE MR. G. L. CORBETT : The Railway Board's Classified Lists of Establishment for 1923, 1924 and 1925, copies of which are in the Members' Library, show the names of Traffic Inspectors on each State Railway. Government have no information beyond what is contained in those lists. Classified Lists of subordinates of the various State Railways for 1926 are under preparation and copies will be placed in the Library in due course.

RESERVATION OF LAND IN THE SUTLEJ VALLEY COLONY FOR GRANTS TO SOLDIERS.

58. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Will the Government kindly state whether it is a fact that the Punjab Government has reserved 75,000 acres of land in the proposed Sutlej Valley Colony for grants to those who have performed distinguished military service ?

(b) If the answer to (a) be in the affirmative, will Government kindly state whether the military authorities propose to allot a portion of this land to soldiers of other provinces than the Punjab as well ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The answer is in the affirmative.

(b) No, Sir. The Punjab Government have decided that the colonists must be inhabitants of the Punjab and Delhi provinces.

RESERVATION OF CROWN WASTE LANDS IN THE PROVINCES FOR ALLOTMENT TO SOLDIERS.

59. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will Government kindly state whether other Provinces have also reserved some of their Crown waste lands for allotment to soldiers ? If the answer be in the affirmative, what areas of such lands have been reserved in each province ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : So far as the Government of India are aware, no other province has reserved land in the same manner for allotment to soldiers.

GRANT OF CROWN WASTE LANDS TO SOLDIERS.

60. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Have soldiers whose homes are in provinces other than the Punjab ever been rewarded with a grant of Crown waste lands in newly irrigated colonies ? If so, a statement showing areas granted in each province to soldiers of different provinces may kindly be laid on the table of this Council for their information ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : With the exception of Gurkhas and Pathans who have permanently settled in the Punjab, soldiers of other provinces have not, so far as I am aware, been granted land in newly irrigated colonies.

ALLOTMENT TO SOLDIERS OF THE UNITED PROVINCES, BIHAR, THE MAHARASHTRA AND RAJPUTANA OF CROWN WASTE LANDS IN SIND AND THE PUNJAB.

61. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Have the military authorities ever considered the desirability of allotting to soldiers of the United Provinces, Bihar, the Maharashtra and Rajputana the Crown waste lands reserved for soldiers in Sind and the Punjab ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The reply is in the negative so far as the Punjab is concerned. The conditions under which land grants are made in this Province are laid down by the Local Government. So far as the Government of India are aware, no land has been reserved in Sind for distribution to soldiers.

NUMBER OF CADETS IN THE ROYAL INDIAN MILITARY COLLEGE, DEHRA DUN.

62. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will Government kindly give a statement showing the number of students reading in the Prince of Wales' Military College, Dehra Dun, by communities and by Provinces ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : A statement furnishing the information desired by the Honourable Member is laid on the table.

Statement showing the number of cadets at the Prince of Wales' Royal Indian Military College, Dehra Dun, by communities and by provinces.

	Muham-madans.	Sikhs and Jats.	Hindus.	Indian Christians.
Madras	1	..	..	..
Bombay .. ..	..	..	1	..
Central Provinces	1	..	..	1
Bengal .. ..	..	..	2	..
United Provinces	4	2	4	..
Punjab	8	22	3	..
North-West Frontier Pro- vince	5	..	..	1
Baluchistan	2	..	..	..
Delhi .. ..	..	..	1	..
Bihar and Orissa .. ..	..	1	1	..
Indian States	3	6	8	..
Total ..	24	31	20	2

THE HONOURABLE SIR PHIROZE SETHNA : Will His Excellency inform the House if any student has been denied admission on the ground of belonging to a particular community, although otherwise fully qualified ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : So far as I am aware, no.

PURCHASE OF BRITISH MADE CEMENT BY THE KARACHI PORT TRUST.

63. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that the Karachi Port Trust authorities have called for tenders for British-made cement ? Will the Government kindly state what are the Government rules at present for the purchase of stores of a kind manufactured in India ? Has the attention of the Karachi Port Trust authorities been invited to these rules ?

THE HONOURABLE MR. A. H. LEY : Government have no information regarding the tenders called for by the Karachi Port Trust authorities for cement. Purchase of stores by Departments and officers of the Central Government and of the Local Governments and Administrations other than those

of the Governors' Provinces, is regulated by the rules published with the Resolution of the Government of India in the Department of Industries and Labour No. S.-217, dated the 6th May 1924. These rules do not govern purchases made by Port Trusts and have not therefore been brought to their notice specifically.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it not a fact that in the *Indian Trades Journal* of the 29th July a notice has appeared inviting tenders for something like 2,700 tons of British-made cement?

THE HONOURABLE MR. A. H. LEY: Quite possibly, but it has nothing to do with the Government of India.

RECRUITMENT OF INDIANS TO THE DAIRY FARMS BRANCH OF THE MILITARY FARMS DEPARTMENT.

64. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that Government recruited a few graduates for training in the Military Dairy Farms a few years back? If so, what is their number now and has the experiment proved a success?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I presume the Honourable Member is referring to the scheme for the recruitment of Indians to the Dairy Farms Branch of the Military Farms Department. Recruitment to this Branch of the Department was not confined to graduates. Candidates who had passed the Matriculation examination, or who were in possession of a school leaving certificate, were also considered.

Since 1922, however, 19 graduates who were candidates were offered appointments. Of these, 15 failed to join the department and one who had accepted the post of an apprentice, subsequently resigned after having served for a few months; another, who held the appointment of a Supervisor was discharged from the service for misconduct. The remaining two are still serving in the department.

There are now 52 Indians and 3 Anglo-Indians employed as Supervisors and Assistant Supervisors, and 54 Indians and 2 Anglo-Indians as apprentices. These figures include the two graduates mentioned above.

The Government of India are not yet in a position to say whether the scheme, in so far as it includes graduates, has proved a success or not.

ARTICLE IN THE AMRITA BAZAR PATRIKA ENTITLED "STORY OF STAMPS WHICH VANISH."

65. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (a) Has the attention of the Government been drawn to the "Story of stamps which vanish", which appeared in the *Amrita Bazar Patrika* (Town Edition), dated Sunday, the 21st March, 1926?

(b) Have the Government made an enquiry into the allegations made therein?

(c) If so, will the Government be pleased to place the results of its enquiry on the table?

THE HONOURABLE MR. A. H. LEY: (a) Yes.

(b) Yes.

(c) Government do not propose to do so.

CASE OF BABU TRILOCHAN CHOWDHURY, LATE CASHIER, OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

66. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (a)

Is it not a fact that Babu Trilochan Chowdhury, Cashier, Government of India Press, Calcutta, was tried by Mr. T. J. Y. Roxburgh, the Chief Presidency Magistrate of Calcutta, for criminal breach of trust and was acquitted by him on the 19th November 1925?

(b) Is it a fact that the said Babu Trilochan Chowdhury was dismissed on 11th February 1926, after a departmental enquiry held on the 7th, 8th and 9th February?

(c) Is it a fact that the enquiry revealed a shortage of Government stamps amounting approximately to Rs. 66,000?

(d) Is it a fact that the enquiry was made into accounts which spread over eight years?

(e) Is it not a fact that it was deposed to by prosecution witnesses before the Chief Presidency Magistrate, in the case of Trilochan Chowdhury, that the office of the Controller of Printing, Stationery and Stamps kept only "Current records for two years"?

(f) Is it not a fact that the departmental enquiry was conducted without any reference to the account books of the years between 1918 and 1923, which were not in existence and could not be produced before the Magistrate?

(g) Is it not a fact that, as a result of this enquiry, the said Trilochan Chowdhury was not only dismissed but his security deposit of Rs. 10,000 was ordered to be forfeited?

THE HONOURABLE MR. A. H. LEY: (a) Yes.

(b) Yes.

(c) Yes.

(d) The enquiry related to accounts for a period of seven years.

(e) Yes; from the evidence it appears that the witness referred to despatch books only.

(f) The departmental enquiry was conducted by reference to the Cashier's account books and challans between 1918 and 1925 which were in existence.

(g) Yes.

IMPERFECT SYSTEM OF MANAGEMENT IN THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

67. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (a) Is it not a fact that, in the course of the trial of the said Trilochan Chowdhury, it transpired that the system of management in the Government of India Press was extremely inefficient and gave much scope for dishonesty?

(b) Is it not a fact that the Chief Presidency Magistrate, in the course of his judgment wrote : " It is unnecessary to discuss the other evidence in detail which goes to show how imperfect the system was ; Mr. Letton (the Manager) wrote that it ' shrieked for trouble ' and it did. But it does not follow that the Cashier was necessarily the man who caused the trouble " ?

THE HONOURABLE MR. A. H. LEY : (a) No. The remarks made by the Magistrate related to the system in force for checking the accounts of stamps received by the Cashier and not to the general management of the Press.

(b) Yes.

SYSTEM OF TRANSIT OF STAMPS BETWEEN THE OFFICE OF THE CONTROLLER OF PRINTING, STATIONERY AND STAMPS AND THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

68. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (a) Has the Government's attention been drawn to the evidence given by Mr. Letton, the Manager, and other employees of the Government of India Press, Calcutta, and of the Controller of Printing, Stationery and Stamps, with regard to the system of transit of stamps to and from the Controller's Office and the Press ?

(b) Have the Government taken any step for the reorganisation of the department in the light of the Magistrate's remarks on the then prevailing system ?

(c) Have the Government made an enquiry into the system of management in the different sections of this department ?

THE HONOURABLE MR. A. H. LEY : (a) The Controller of Printing Stationery and Stamps did not appear as a witness in the case. The attention of Government has been drawn to the evidence given.

(b) and (c). Most of the branches of the Stationery and Printing Department have been reorganised in the last few years, but this reorganisation had no reference to the remarks made by any magistrate. In the course of the reorganisation the question of the management of the different branches has received due attention.

EARNINGS OF COMPOSITORS IN THE GOVERNMENT OF INDIA PRESSES IN CALCUTTA AND DELHI.

69. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (a) Is it not a fact that the Government of India Resolution No. A.-31, dated the 15th July 1920, stated that the compositors of the Government of India Press used to earn from Rs. 35 to Rs. 90 according to old class rates ?

(b) Is it not a fact that by the said Resolution an increment of 40 per cent. was given to all the workers in the Government of India Press ?

(c) Is it not a fact that, according to the rates of increment given by the Government, the earnings of the compositors work out at from Rs. 49 to Rs. 126 ?

(d) Will the Government be pleased to lay on the table a statement showing the minimum and maximum earnings of the compositors in the Government of India Presses in Calcutta and Delhi per month in the years 1923, 1924 and 1925 ?

THE HONOURABLE MR. A. H. LEY : (a) Yes.

(b) Piece rates were raised by 40 per cent. in the Government of India Presses at Calcutta and Delhi and by 50 per cent. in the Government of India Press, Simla.

(c) Provided that their output had remained unaltered, piece-workers who were receiving between Rs. 35 and Rs. 90 would have drawn, on getting a 40 per cent. increase in rates, wages varying within the limits mentioned by the Honourable Member.

(d) The information is being collected and will be supplied to the Honourable Member when available.

AMOUNT REALISED BY FINES DURING THE LAST FOUR YEARS IN THE GOVERNMENT OF INDIA PRESSSES AT CALCUTTA, SIMLA AND DELHI.

70. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to lay on the table a statement showing the amount of fines realised under the respective headings of late fine, pie sorting fine, breakfast fine, absence fine, special fine and average fine in the years 1920, 1921, 1922, 1923, 1924 and 1925 ?

THE HONOURABLE MR. A. H. LEY : Separate accounts are not maintained for the different classes of fine, nor are all the fines mentioned by the Honourable Member now levied. The total amounts realized by fines during the last four years in the Government of India presses at Calcutta, Simla and Delhi, were as follows :

						Rs.	a.	p.
1922-23	..	..	..	..	..	3,493	6	0
1923-24	..	..	..	..	..	2,252	14	11
1924-25	..	..	..	..	..	1,850	6	2
1925-26	..	..	..	..	..	1,952	0	2

I regret that I cannot give the Honourable Member figures for the years before 1922.

GRANT OF BENEFITS FROM THE FINE FUNDS TO THE DEPENDENTS OF EMPLOYEES OF THE GOVERNMENT OF INDIA PRESSSES.

71. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state when the Compassionate Fund was started, by whom it has been administered since then, and the names of those who have received benefits under this fund, with the amounts received by each ?

THE HONOURABLE MR. A. H. LEY : I presume the Honourable Member refers to the Fine Funds in the Government Presses, which are used for the benefit of press employees and their families, and not to the general Compassionate Fund maintained by the Government of India for the relief of the families of Government servants left in indigent circumstances. The Fine Funds were started on 1st April 1922. They are administered by the Managers of the Government of India Presses. Payments are made on the recommendation of the Employees Works Committees and the Managers, subject

to the approval of the Controller of Printing, Stationery and Stamps. The dependants of 15 Press employees have received benefits from the Funds up to 1st April 1926, the total amount disbursed up to that date being Rs. 1,135. I am informed that further payments have been made since that date, but I have not yet received particulars of these payments. I do not think that any useful purpose would be served by giving the Council the names of those who received benefits, but if the Honourable Member cares to call at my office, I shall be glad to show him the list.

AMOUNTS SPENT ON PRINTING WORK DONE BY PRIVATE PRESSES.

72. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (a) Will the Government be pleased to lay on the table a statement showing the amounts paid for work done under contract by private presses in the years 1920 to 1925 respectively ?

(b) Is it not a fact that about five hundred men working in the Government of India Presses in Calcutta and Delhi were thrown out of employment in 1922 and 1923 in consequence of this system of placing contracts with outside presses ?

(c) Will the Government be pleased to state the reason why work is given out to private presses on contract ?

THE HONOURABLE MR. A. H. LEY : (a) The amounts paid to contractors for printing work in the years stated in the question were as follows :

	Rs.
In 1920-21	6,23,564
In 1921-22	8,03,672
In 1922-23	5,64,241
In 1923-24	2,58,868
In 1924-25	2,48,886

(b) The answer is in the negative. As the figures which I have just given will indicate, the amount of work given to contractors in 1922 and 1923 was appreciably less than in the preceding years.

(c) As I have informed the Council in reply to question No. 8 on the 18th August last, the Government Presses are not equal to doing all the printing work required by Government, and it is precisely for this reason that work is given out on contract.

THE PRINTING CLEARING OFFICE.

73. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state (a) when the Printing Clearing Office was started ; (b) what is its function ; (c) what is the number of men working in it ; and (d) the number of officials which compose the management, their respective designations and salaries ?

THE HONOURABLE MR. A. H. LEY : (a) 9th June 1922. Since the 1st November 1924 the designation of the Printing Clearing Office has been changed to Central Printing Office.

(b) Its principal functions are as follows :

- (i) to ensure an even flow of work to the various presses ;
- (ii) to regulate the printing and binding work of the Central Departments and offices, with a view to the prevention of unnecessary charges on this account ;
- (iii) to scrutinize the charges for printing work done in private presses ;
- (iv) to deal with questions relating to the administration of the Government of India Presses ; and
- (v) to reproduce the duplicating work required by Central Departments and offices at the headquarters of the Government of India.

(c) The total number of men employed including gazetted officers, non-gazetted establishment and inferior servants is 34.

(d) One Deputy Controller of Printing—

Rs. 750—50—1.000 *plus* special pay Rs. 150—10—200 per mensem.

Two Assistant Controllers of Printing—

One on Rs. 500—25—700 per mensem and

One on Rs. 250—25—550 per mensem with free quarters.

DEPARTMENT WHICH PREVIOUSLY UNDERTOOK THE WORK NOW DONE BY THE PRINTING CLEARING OFFICE.

74. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state how and by whom the work now done by the Printing Clearing Office was managed before its creation ?

THE HONOURABLE MR. A. H. LEY : Part of it was done in the office of the Controller of Printing, Stationery and Stamps and part in the Government of India Press at Calcutta : but the greater part was left undone.

ANNUAL EXPENDITURE ON THE PRINTING CLEARING OFFICE.

75. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state the total annual cost for the maintenance of the Printing Clearing Office ?

THE HONOURABLE MR. A. H. LEY : The cost during 1925-26 was Rs. 71,836.

DEDUCTIONS FROM THE ACTUAL HOURS OF WORK DONE BY THE COMPOSITORS OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

76. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (a) Will the Government be pleased to state if it is a fact that the checkers of the Government of India Press, Calcutta, deduct, almost daily, something from the actual hours of work done by the compositors in spite of certificates from section holders ?

(b) Is it a fact that the "Lino" and "Mono" correctors, who are paid by hour rates, have also to submit to these deductions ?

THE HONOURABLE MR. A. H. LEY : (a) Yes, where necessary.

(b) Yes.

ALLOWANCES FOR IDLE HOURS TO THE PIECE-WORKERS IN THE GOVERNMENT OF INDIA PRESSES.

77. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (a) Is it a fact that, by a Government order in 1920, the piece-workers in the Government of India Press are entitled to receive allowances for "idle hours"?

(b) Is it the case that this order is not carried out, and the workers do not receive the allowances?

THE HONOURABLE MR. A. H. LEY : (a) Yes.

(b) No. All piece-workers except those recruited after the 16th July 1925 are paid for idle time.

PAYMENTS FOR WORK DONE IN CONNECTION WITH THE PREPARATION OF MAPS, PLANS AND DIAGRAMS.

78. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (a) Is it a fact that, previous to July 1924, the work for preparing maps, plans and diagrams was paid by the hour?

(b) Is it a fact that, subsequent to July 1924, payment by rates was introduced?

(c) Is it a fact that the Hand-book lays down rules regulating payment by hours and not by rates?

(d) If the answer to (b) is in the affirmative, will the Government be pleased to state why this departure from the previous system of payment was made?

THE HONOURABLE MR. A. H. LEY : (a) and (b). Yes.

(c) Yes, as a general rule.

(d) I would refer the Honourable Member to the reply given to the Honourable Mr. Khaparde's question No. 40 on 25th August 1925.

PROVISION OF LIGHT WORK FOR ELDERLY PIECE-WORKERS IN THE GOVERNMENT OF INDIA PRESSES.

79. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Have Government taken steps to give effect to the recommendation made in 1922 in paragraph 19 of the Piece-Workers' Committee's report that "a real effort should be made to place the older hands on light work"?

THE HONOURABLE MR. A. H. LEY : Yes.

ARREST OF ELEVEN RESPECTABLE HINDUS AT DERA ISMAIL KHAN.

80. THE HONOURABLE RAJA MOTI CHAND : Will the Government be pleased to state if it is a fact:

- (a) that, on or about the 27th of June, 1926, eleven respectable Hindus were arrested at Dera Ismail Khan;
- (b) that they were placed in political custody without any charge or crime imputed to them;
- (c) that no charge or imputation of crime was ever explained either to them or to their relations;

- (d) that the Deputy Commissioner, Major D. M. Fraser, refused their relations a copy of the order and warrant of arrest or charge against these eleven Hindus and their petition for release on bail ;
- (e) that the request of the relations of these eleven under-trial Hindus to provide them with meals from their own homes and bedding and clothing for their use was summarily rejected by the Deputy Commissioner ;
- (f) that these Hindus were confined in solitary cells of the local jail ; and
- (g) that the relations then applied to the Superintendent of the Jail for a power of attorney to seek legal remedy, but were told that these eleven Hindus were neither convicted nor had any warrant for their arrest been issued and consequently he could not sanction the power of attorney sought for ?

THE HONOURABLE SIR JOHN THOMPSON : Enquiry is being made from the local Administration and a reply will be furnished to the Honourable Member in due course.

EXPENDITURE ON THE INDIAN TERRITORIAL FORCE AND UNIVERSITY TRAINING CORPS.

81. THE HONOURABLE RAJA MOTI CHAND : (a) Will the Government be pleased to state the amount of money spent on the Territorial Forces, province by province, and on the University Training Corps, University by University ?

(b) Is the amount of money that is spent on the above separately earmarked in the District Budget, or does it lie with the General Officer Commanding the District to allot the money according to his own notions ?

(c) Have the recommendations of the Advisory Committee of the United Provinces Territorial Forces, such as holding the camp of exercise at some hill station, ever been considered by the military authorities ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) I am afraid the Army accounts do not show separately the amounts spent on each provincial battalion and University Training Corps company. The information desired by the Honourable Member could not be obtained without an expenditure of labour and time which, in the opinion of the Government, would not be justified by the result.

(b) The amounts for each District are annually allotted in the Budget, due regard being paid to the probable requirements of both the provincial battalions and the University Training Corps companies located in that area. Such amounts can only be spent on the general objects for which they are intended, and may not be diverted for any other purpose. The General Officers Commanding, Districts, are merely empowered to re-appropriate savings from one minor head to another within the major head "Territorial Force" in their respective commands.

(c) Under the Indian Territorial Force Rules, the recommendations of Advisory Committees are usually considered and disposed of by the General M44CS

Officer Commanding the district concerned. They are not, as a rule, forwarded to Army Headquarters.

STATE MANAGEMENT OF THE BENGAL AND NORTH WESTERN RAILWAY.

82. THE HONOURABLE RAJA MOTI CHAND : Do the Government propose to take over the management of the Bengal and North Western Railway when the contract expires in 1933 or do they propose to renew the said contract ?

THE HONOURABLE MR. G. L. CORBETT : Government have not considered the matter and do not propose to do so till much nearer the time when notice of determination of the contract can be given.

NUMBER OF EUROPEANS, ANGLO-INDIANS AND INDIANS EMPLOYED ON THE BENGAL AND NORTH WESTERN RAILWAY ON RS. 400 AND OVER.

83. THE HONOURABLE RAJA MOTI CHAND : What is the proportion of Europeans, pure Indians and Anglo-Indians employed in the Bengal and North Western Railway drawing a salary of Rs. 400 and over ?

THE HONOURABLE MR. G. L. CORBETT : Government have no detailed information than that given in the Administration Report.

APPOINTMENT OF HINDU BARRISTERS AS JUDGES OF THE ALLAHABAD HIGH COURT.

84. THE HONOURABLE RAJA MOTI CHAND : (a) Is it a fact that no Hindu barrister has ever been appointed to an officiating, additional or permanent High Court Judgeship at Allahabad since the establishment of the High Court of Judicature there ?

(b) If so, will the Government be pleased to state if there is any special or other reason for such non-appointment of Hindu Barristers ?

THE HONOURABLE MR. J. CRERAR : Government would not be able, without considerable research, to answer part (a) of this question, and they think it unnecessary to embark on such research as there are no special reasons why Hindu barristers should not be appointed.

VAKIL JUDGES OF THE ALLAHABAD HIGH COURT AND THE COURT OF THE JUDICIAL COMMISSIONER, OUDH.

85. THE HONOURABLE RAJA MOTI CHAND : Will the Government be pleased to state how many Vakils have been appointed to Judgeships in the Allahabad High Court, and in the Judicial Commissioner's Court at Lucknow from the Vakil Bar at these places, and whether there are Vakil Judges now upon the Bench in both the said courts ?

THE HONOURABLE MR. J. CRERAR : There is one Vakil Judge now in the Allahabad High Court and two in the Chief Court of Oudh. It would involve much labour to ascertain how many Vakils have been appointed to the Allahabad High Court and the Judicial Commissioner's Court at Lucknow from the date of institution of these Courts and the Government do not think the labour would be justified.

STATEMENT LAID ON THE TABLE.

THE HONOURABLE MR. G. L. CORBETT: I beg to lay on the table the Agreement between the United Kingdom and Portugal in regard to Tonnage Measurement of Merchant Ships, together with Notes exchanged, which affects India.

AGREEMENT BETWEEN THE UNITED KINGDOM AND PORTUGAL IN REGARD TO TONNAGE MEASUREMENT OF MERCHANT SHIPS, TOGETHER WITH NOTES EXCHANGED.

London, May 20, 1926.

His Britannic Majesty's Government and the Portuguese Government have agreed as follows:—

In view of the fact that the existing laws and regulations of Great Britain in regard to measurement of tonnage of merchant ships are in substantial agreement with those of Portugal, British ships furnished with certificates of registry and other national papers, duly issued by the competent British authorities shall be deemed by the Portuguese authorities to be of the tonnage denoted in the said documents and shall be exempted from being remeasured in any port or place within Portuguese territory or in localities under the control of Portugal, on condition that similar terms shall be accorded to Portuguese ships equipped with certificates of registry or other national papers duly issued by the competent Portuguese authorities on or after the 5th July, 1924, and that such ships shall be exempted from being remeasured in any place within His Britannic Majesty's Dominions or under His Britannic Majesty's protection or control.

Either of the contracting parties may, on giving to the other twelve months' notice to that effect, terminate this Agreement either as a whole or separately in respect of any of the following parts of His Britannic Majesty's Dominions, *viz.*, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, Newfoundland, and His Majesty's Indian Empire.

In the event of the Agreement being terminated in respect of any such part of His Britannic Majesty's Dominions, the Agreement shall cease to apply to British ships registered therein.

In witness thereof the undersigned have signed the present Agreement and have affixed thereto their seals.

Done in duplicate at London, the 20th day of May, 1926.

(L. S.) AUSTEN CHAMBERLAIN.

(L. S.) NORTON DE MATTOS.

No. 1.

Sir Austen Chamberlain to the Portuguese Ambassador.

Foreign Office, May 20, 1926.

Your Excellency,

With reference to the Agreement which is being signed this day on behalf of the British and Portuguese Governments in regard to the measurement of tonnage of merchant ships, I desire to place on record the fact that this Agreement is made with the consent of the self-governing Dominions and India.

[Mr. G. L. Corbett.]

2. I have the honour to add that it would be understood that the stipulations of the Agreement shall not be applicable to Irak unless notice shall have been given of the desire of the Irak Government that they shall be so applicable.

I have, etc.,

AUSTEN CHAMBERLAIN.

No. 2.

The Portuguese Ambassador to Sir Austen Chamberlain.

Portuguese Embassy, London,

May 20, 1926.

SIR,

I HAVE the honour to acknowledge the receipt of your Excellency's note of to-day informing me of your desire to place on record the fact that the Agreement which is being signed this day on behalf of the Portuguese and British Governments in regard to the measurement of tonnage of merchant ships is made with the consent of the self-governing Dominions and India.

It would be understood that the stipulations of the Agreement shall not be applicable to Irak unless notice shall have been given of the desire of the Irak Government that they shall be so applicable.

I have, etc.,

NORTON DE MATTOS.

RESOLUTION *RE* ABOLITION OF THE PIECE-WORK SYSTEM IN THE GOVERNMENT OF INDIA PRESSES.

THE HONOURABLE SRIJUT LOKENATH MUKHERJEE (WEST BENGAL : NON-MUHAMMADAN): Sir, I beg to move the following Resolution which stands in my name :

"This Council recommends to the Governor General in Council that the piece-work system in the Government of India Presses may be abolished at an early date or, in the alternative, that a Committee of officials and non-officials be appointed to enquire into the grievances of the Press employees of the Government of India Presses and suggest remedies."

My Resolution is capable of being split up into two parts. I have intentionally worded it so. My intention is to seek to convince the House no less than the Government that the piece-work system as obtains in the Government Press has certain inherent defects which cannot be removed unless the system itself is abolished. But in case the House holds a different view from mine and considers that the piece-system can be so reformed as to improve the working conditions of the Press employees, I have proposed in the alternative the appointment of a mixed Committee to go thoroughly into the system under which the Government of India Presses work and suggest the lines on which the necessary reforms may be carried out.

Sir, the question is not a new one. It has a history dating as far back as the 14th September, 1920, when my friend the Honourable Mr. Khaparde raised it. It was subsequently raised in 1921 by my indefatigable friend who was able to secure a Committee. Some men might have given up the cause of the poor workers after this achievement, but my Honourable friend was determined not to rest till the legitimate grievances of these poor workers

were wholly removed and so in August, 1925, he again moved another Resolution for a mixed committee which was very narrowly defeated in this House.

Sir, my first indictment against the piece-system is that it is very intricate. I have talked with the workers and have tried to inform myself as to how the system actually works. I cannot say that I have mastered the intricacies of this system as thoroughly as the Honourable Member in charge of Industries and Labour or as his colleague the head of the department. But from what I have gathered I find that the term piece-system as prevailing in the Government Presses is a misnomer. It is a mixed system which is worked with the help of those who are paid by the piece-rate as well as of those who are called salaried hands. The piece-workers are neither contractors nor servants. They are something between the two. They have all the disadvantages and disabilities of the two but few of their advantages. They are, to quote the very expressive language of my Honourable friend Mr. Khaparde, neither fish nor flesh nor fowl, but something in the nature of each. I need not tire you out by an elaborate description of the piece-system actually at work. The intricacy of the system would be manifest from the fact that a computor before he has completed the piece of work entrusted to him has to pass through nine salaried hands, namely, the section-holder, the store-keeper, the case-supplier, the porter, the type-supplier, the gally-proof pressman, the first proof reader, the second proof-reader, and finally the reviser. But the completion of work does not necessarily mean that he has any definite idea about his earnings on that particular piece of work. There is the computor, a salaried hand, who is the final authority who will decide the amount of his earnings on the basis of the certificate issued by the section-holder stating the amount of work done by the compositor. How uncertain a factor is the computor's calculation of an earning can be judged by the evidence of the Examiner of Press Accounts who admitted before the Piece-Workers' Committee of 1922 that "no two computors would arrive at identical calculations of a specific piece of work". But apart from the fallibility of the computors there are the checkers who have very large discretion to decide as to what they consider to be the normal period that should be taken in doing any particular work. Naturally, therefore, there is grave discontent amongst the workers, who consider, rightly or wrongly, that the computors and the checkers arbitrarily reduce their earnings with a view to earn the approval of their superiors by managing the work at comparatively less expense.

I have said enough to give an idea as to how complex is the system at work. I shall just say a word as to how the system admits of a clash of interests besides leaving the door open to favouritism of the worst type. The salaried hands are entitled to overtime allowances. Naturally, therefore, there may be a tendency, I do not say conscious, of delaying the work to enable them to earn these allowances. The interests of the piece-worker is to put in as much work in a given time as possible. But he is helpless, because he has to depend on those whose interest is the other way about. With regard to the possibility of favouritism I may say that there are various kinds of work—some are paid at a higher rate than the others. It may very conceivably be that the section-holder will naturally give the better-paid work to those whom he likes rather than to those with regard to whom the

[Srijut Lokenath Mukherjee.]

attitude of his mind is neutral. There cannot, under this system, be any man who will have the temerity to say a single word in protest against the section-holder however much he might be in the wrong. It has been said that the piece-work system is economical inasmuch as less supervision is required because the men themselves are their own supervisors who know that the more they would work the more would they earn. I need not refer to the almost unanimous opinion of the private press owners against the piece-system which they have abandoned as "unwieldy, expensive" and involving "an additional accounting establishment." I would simply give some official figures and leave it to the House to judge how far the contention is based on practical experience. An official statement given on the 14th January, 1921, gives the following figures :

Workmen and overtime	..	..	..	6,72,448
Supervision and auxiliaries	..	..	..	4,37,035

In other words, supervision costs practically two-thirds of the wages received by the workmen, working all overtime. Is this system conducted economically ? Is this system capable of being conducted economically ? These are questions I leave the House to judge.

If, as is said, the piece-system by regulating the wages according to the quantity and quality of a man's work is an incentive to industry and efficiency, why should there be a huge variety of fines arranged against them ? There is the late fine, the absence fine, pye-sorting fine, average fine, breakfast fine and special fines. What with the uncertainty of work, the enforced idleness during the time when the proofs are corrected or when proofs are delayed in being given to the proof reader and for such other causes which are inevitable under a system composed of piece and salaried hands, what with the fallibility of computers and arbitrary reduction made by checkers added to the reductions by way of fine, the actual earnings of the worker are certainly far less than what he would have been otherwise entitled to. In short, the piece-system as it is in force in the Government Presses is, as would be evident from what I have said, not quite a system of wages according to work. It is a system under which one set of men is forced to sit idle so that another set of men, the salaried hands, may get a chance of earning handsome overtime allowances. It is a system under which the loss of one set of men is the gain of another set.

Further, one result of the piece-system is the early breakdown in health of the workmen. Long hours, no holiday, punishment for absence without medical certificate, besides loss of remuneration, lead to an overstrenuous life which results in the breakdown of health.

I have already shown the complex nature of the piece-system as it is in force in the Government Presses. I have also shown how this system admits of one set of workers profiting at the loss of earnings of another section. I have also referred to the causes which lead to an early breakdown of health of the workers. There is another very important point which it is necessary to mention to give an idea of its inequitable character. Whereas under the system of salary, the older and the more experienced the man, the higher is the salary, under the piece-system the young man earns more than what he will be able to earn when he grows old. In practice it has been found that the older the man, the less is his earning under the piece-system. This conflict of interest,

this degrading and over-rigorous discipline maintained by fines and other similar devices, the utter helplessness of the piece-system men against the section-holder, the falling-off of income in old age, the inadequate rates, the unconscionably long hour of work which undermine health, the vagaries of the checker, the overseer and the computor, work without rest even during the holidays enjoyed by all other Government servants— these are but some of the defects inherent in the piece-system.

I do not believe in wages for idlers : I do not want indiscipline in the office. Nor do I want a system which shatters the health, self-respect and sense of responsibility of young men and offers to the men in their old age nothing but poverty and all the evils attendant on it. There have been instances in which a man has been found to have been entitled to Rs. 3 only as monthly pension after completing 30 years of service, while he in his younger days used to earn some 50 or 60 rupees a month.

But apart from the defects inherent in the system some of which are capable of being only partially removed, there are other grievances of the workers which are capable of being removed even if the Government are resolved to maintain the piece-system. From 1920-23, reduction was effected in the Delhi, Simla and Calcutta Presses under the Government, driving about 500 men out of employment, men who had put in a service of 9 years or less, while during the same period contracts worth many lakhs of rupees were placed with private presses. If, as is contended, the piece-work system combines efficiency with economy one finds it difficult to explain the issue of these orders to private presses simultaneously with the reduction in the establishment. As for the fine system, I understand from a report published in the papers that the Honourable Member in charge has taken this up with a view to its abolition and I have no doubt, knowing as I do his sympathy for the working classes, that his efforts in this direction will be fruitful. There are various other grievances of the press workers the removal of which was urged by the Piece-Workers' Committee in 1922 which have not been fully given effect to or those of which that were given effect to have been done in such a manner as to take away with the left hand what was given with the right. The distinction between the permanent and the temporary establishment has not been completely abolished. Older men have not been put to light work. Distributors have not been permitted to choose between a salary and piece-work system. Closer supervision is seldom exercised over both section-holders and checkers. The wishes of the piece-workers are not consulted in regard to the time of attendance. Appointments to the post of section-holders, as a rule, are not made alternately from assistant section-holders and compositors. Lastly, the provident fund as promised in the Resolution of the Government of India, dated the 15th July 1920, has not been inaugurated. It is a pity that it has taken the Government five long years to frame the rules for the fund, which have yet to receive final approval. When reductions have been effected it has affected only the piece-workers. Whenever the piece-workers have made complaints or have applied for being put on light work in consideration of advanced age they have been threatened that they would be placed on the reduction list. But whilst there has been a good deal of delay in giving effect to some of the recommendations of the Piece-Workers' Committee, the Government were very prompt in carrying one recommendation, namely, the establishment of a Central Printing

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and Clearing Office, the expensive character of which is more manifest than its usefulness.

Sir, I have given only a general outline of the disabilities under which the employees of the Government presses work. Sir, I think that when the Government run such huge industrial establishments as the Government Presses are, affecting the well-being of about 3,000 workers, the working conditions should be such as to be a model to the private presses, and I am sure that none would dispute the proposition that a contented workman, who is sure of receiving justice, makes far greater efficiency than one who is driven to work simply to avoid starvation and is kept to his duties by means of fines and other penal measures while he can look to no future prospects nor to a comfortable old age when he would be living on the industry and efficiency of his youthful and vigorous days. A Committee consisting of officials and non-officials would be able to go into the question with a thoroughly open mind, and the recommendations they make after due enquiry into the working of the system are likely to contribute to the greater efficiency and economy of management while improving the sad lot of the workers I described. A workman is not a machine nor ought he to be classed with cattle. He must have adequate food, sanitary housing conditions and must have leisure to improve himself morally and intellectually. He must be able to afford the expense of educating his children. I can never persuade myself to believe that the interest of the tax-payer is opposed to those of the workers. If it is the duty of the State to safeguard the interests of the tax-payers by combining efficiency with economy, the highest economy that can be effected is by improving the condition of the workers who will find a new interest in life, an added interest in the work they do and will be furnished with an incentive to do more and to do better the work they are entrusted with. With these few words, Sir, I commend my Resolution to the acceptance of the House.

THE HONOURABLE MR. A. H. LEY: (Industries and Labour Secretary): Sir, as my Honourable friend has explained in his speech, this is an old question, and I do not wish to repeat the previous history, which he has already mentioned. I recognise the force and at the same time the moderation with which he has voiced his views. There are only two points with regard to the previous history of the case which I should like to mention just for the information of the Council. The recommendations of the Piece-Workers' Committee in 1922 have, as I explained in answer to a question the other day, all been accepted and carried out, with two small exceptions relating to quite minor matters. Otherwise all the recommendations have been carried out, with the exception of one recommendation which is an important one and to which my Honourable friend referred, namely, the institution of the Provident Fund. The position with regard to the Provident Fund is that, while it has been accepted by Government, there has been, and will be, delay in giving effect to it. This delay has been due to the fact that it is merged in the general question of a State Provident Fund which is now under discussion with the Government of State. The framing of rules for such a fund is a very elaborate process, and I am afraid there will be some delay before the Provident Fund is established. I may, however, say that as far as the piece-workers in the Government are concerned, they need not worry about funds very much, as now that,

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because it has been accepted that the rules when introduced will be applied to piece-workers in the Government of India Presses with retrospective effect from the 15th July 1920, which is the date on which the Government of India Resolution revising the piece-rates was issued.

Before I pass from the history of the matter, there is one other aspect of that history to which my Honourable friend did not refer, which I should like to mention, because it will strengthen my case, I think, in asking this Council not to accept the Resolution moved by my Honourable friend. The Resolution falls into two parts. The first deals with the system as a whole, which he wants to see abolished. Well, that part of the history of the matter, which he did not mention, was that this question has only recently been examined by a committee in another sphere but in exactly analogous conditions, namely, by the Bengal Government. The Bengal Government have exactly the same problem to face as the Government of India in this matter, and as my Honourable friend probably knows, a Resolution was passed in the local Council in Bengal at the end of last year recommending the appointment of a committee to go into the question. A committee was formed by the Bengal Government and I have just received by the courtesy of the Government of Bengal a copy of their report, which is now I understand under the consideration of the Bengal Government. I am not sure whether the report has actually been published yet, but I am in a position to say that that committee have endorsed in their entirety all the conclusions of the committee appointed by the Government of India in 1922 on the question of the piece-work system as a system. They have endorsed those conclusions in their entirety. They have found that the piece-work system is a system which is not only most suitable in the present industrial development of the country at the stage which the industry has reached, but that it is best, not merely for Government but for the employees themselves.

In dealing with the first part of the Resolution I do not think I need say very much more. After all what is the system? The system is a little complicated I admit, but fundamentally it is merely a system of payment of wages according to outturn of work. That, after all, is a system which is universal in most industries in this country. It is universal in the jute mills, it is universal in the coal mines, it is practically universal among the weavers and spinners in cotton mills. It is the normal form of payment of wages in this country, and, as the Bengal Piece-Workers Committee have pointed out, it has the sanction of the printing industry in the United Kingdom, where it must be admitted that the industry is in a more advance stage of development than in India. After all the basis of the system is that the worker gets the full benefit of his work and the employer gets the best value for his money, and I wish the House to take the view that I take, that on the whole that system is best in the interests of the worker and the employer.

I did not catch what my Honourable friend said, but I think he referred to the more or less inadequate earnings of the worker under the piece-work system. Let me give him some figures which will convince the House that piece-workers are extraordinarily well-off. I asked the Controller to let me see the pay bills for the last month which he had readily available showing the pay of all the establishments of the Government of India Presses, and he has given me the

[Mr. A. H. Ley.]

figures. I should like to compare the figures of the piece-workers with the figures of the men on a salaried basis.

The majority of the press hands are now on a salary basis, but there are certain kinds of work which cannot very well be done by men on a salaried basis without a good deal of loss on both sides. The comparison is not very easy to make, because you have to compare earnings in Simla with earnings in Delhi and Calcutta; for the reason that the compositors, who are the principal people concerned, are all on a salaried basis in Simla, while the compositors in Delhi and Calcutta are nearly all on a piece-work basis. Now the compositors in Simla who are on a salaried basis, start on a salary of Rs. 55, which is the lowest salary, and they go up in grades of Rs. 5 to the highest salary, which is Rs. 90, on which grade there are only two men.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : Do they get any pension ?

THE HONOURABLE MR. A. H. LEY : Yes the salaried worker does. What are the figures for Calcutta and Delhi ? The highest rate in Simla is Rs. 90. A compositor in Calcutta in the month I examined, got Rs. 122 in the month, and a compositor in Delhi got as much as Rs. 148. Further, I have just managed to get figures which were being compiled with reference to a question I answered this morning, showing the maximum and minimum earnings in the Delhi Press for the year 1924-25. In no month in 1924-25 did the maximum earnings go below Rs. 98, and they went up to as much as Rs. 199 and Rs. 196, and Rs. 177, figures of that kind. Who can say that the piece-workers are unable to earn a very large wage under the system as it is at present ? I would ask the Honourable Member, when he reads the Piece-Workers Committee's Report, to note how these earnings compare with salaries paid in private presses.

THE HONOURABLE SIR MANECKJI BYRAMJI DADABHOY : When was that Report published ?

THE HONOURABLE MR. A. H. LEY : The Bengal Report ? That is now under consideration by the Bengal Government. The Government of India Committee reported in 1922. As the Piece-Workers Committee of 1922 pointed out, the earnings of salaried hands in private presses come to between Rs. 30 and Rs. 40 on the average. That is about the same as the lowest possible wage, under the piece-work system in Government Presses. According to the figures which I have just got, in practically all the months of 1924-25 the lowest earnings were between Rs. 30 and Rs. 40, and those lowest earnings, it must be remembered, are earned either by the slackers and bad workers, or, more generally, by the beginners and the men who have just begun to learn their trade. They get just as good a wage as the salaries paid in a private press. So that under the system as it stands, the piece-workers are extremely well-off and able to earn, if they work properly, very good wages. To come back to the point whether the system should be abolished or not, I say it is both to the interests of the worker and the interests of the Government. I have dealt with the side of the worker. As far as the side of the Government is concerned, I think the position is obvious. That was dealt with in the Piece-Workers Committee's Report. They pointed out that if

the piece-work system was abolished to-morrow, it would obviously be necessary very largely to increase the supervising establishment in the Government Presses in order to see that the men worked and did not slack. That is only after all common sense : it is human nature. It is perfectly obvious that that would be the first result. In other words the cost of printing would go up very largely, and it would then be a matter for Government to consider to what extent they should carry on. Government would really be forced into one of two alternatives ; they would have to give up their printing work as far as possible, (except for confidential work which of course they must continue to do), reduce staff and hand over the maximum amount of work possible to private presses, which is exactly what these workers do not want. That would be one alternative. The other alternative would be to reduce salaries. Salaries would have to be brought down obviously to a lower basis than the actual earnings of the better piece-workers. After all, the system is based, as I say, on the normal practice of industrial labour in this country, and as I think I have shown, it is to the advantage of the piece-workers themselves and obviously to the advantage of Government.

Now I would like to come to the second part of the Resolution. I may be asked, if the picture is as rosy as I have pointed out, what is all this agitation about ? Well, I must confess that I have been a little puzzled to understand precisely what the grievances are and what real feeling of discontent there is. I say I am a little puzzled by it, because Government have received from the actual workers themselves practically no complaints on the subject at all, and as far as I know, the men are perfectly contented. I do not know whether I caught all the particular grievances that my Honourable friend mentioned. I took down one or two as he was going along, and if I omit any, I must apologise to him, but I think I managed to hear the main ones. He talked about a certain amount of favouritism exhibited by the section-holders. That is a matter which has practically disappeared. I believe he was thinking of the position in 1921, as he quoted from an answer given to a question in 1921. The position is entirely changed as a result of the Piece-Workers Committee's Report. Moreover, the possibility of favouritism has been largely dissipated by the mere fact of the introduction of machinery in the Presses. Practically all the solid work is now done on machines, and most of the hand composing work, in which compositors are paid by the piece, is work of a kind in which there is very little opportunity for favouritism of any kind. Moreover, I have had no complaint from the workers themselves. The Government have received no complaints as far as I recollect, and the same applies with regard to the checkers. The remedy for any favouritism of that kind, as the Piece-Workers Committee pointed out, is increased supervision, but, as I say, I believe the position now to be that there is no complaint in the matter at all. Certainly we have had none on that particular score. Indeed in the last year I can only remember one complaint coming up, and that was quite recently, and I mention it because it is rather a curious incident—a complaint not from a piece-worker, but from a salaried hand in the Government Press here in Simla. The gist of the complaint was that owing to the fact that he had now been put on a salaried basis (this was done two years ago when the Government Central Press was amalgamated with the Monotype Press), he could not advance, and the suggestion was that he had been much better

[Mr. A. H. Ley.]

off on the piece-work basis. That, as far as I recollect, is the only case that has been mentioned to me in the last year, or at any rate since I came out from leave last December. There may have been some other cases that I have not seen, but I am quite sure they were minor ones. My Honourable friend I think also made a certain amount of grievance of the fact that a certain number of workers were forced to sit idle while other workers were working.

As a matter of fact, that also I think refers very probably to conditions before the Piece-Workers Committee's Report was issued. Idle time has now practically disappeared. I gave figures, I think this morning, of the payments for idle time, which are very much smaller than they ever were before. They have decreased from about Rs. 19,000 in 1922 to a little over Rs. 1,000 now; so that idle time has almost disappeared. The reason of course is mainly the establishment of the Printing Clearing Office, or the Central Printing Office as it is now called, which my Honourable friend suggested was a useless institution. It is nothing of the kind. It is one of the most useful features of the reorganization of the Presses effected in the last two or three years by Mr. Ascoli.

Then the Honourable Member referred to long hours. He did not give us any figures, but the most recent figures that I have got are those which were given in reply to a question in this Council this time last year, and which gave the average number of hours per month worked by piece-workers in each Press. That was a year ago, and it showed that only in one case did the average exceed 200 hours a month—that is, 8 hours a day for 25 working days. That was in Calcutta in the case of the Press and Machinemen where the average was 205 hours; all the rest were under 200 hours a month; so I do not think it can be said that the hours are extraordinarily long. No doubt the hours are sometimes long, when work has to be got out in a hurry, for instance Budget work, and the men probably work pretty hard on those occasions; but on the whole and taking the average they do not work very long hours, certainly not any longer hours than other forms of industrial labour.

Then he referred to the fact—which I know is felt as a grievance by the piece-workers—that, as a man gets older, his capacity goes down and his earnings consequently decrease. That is, I confess, an aspect of the matter with which I have some sympathy. Of course it is a factor which is common to every kind of system in which payment is made by outturn—the older a man gets the less sometimes he earns; but considering the amounts that a man doing piece-work can earn in his prime, I think that he has to take the rough with the smooth. But I quite appreciate that this is a disability which is really felt by some of these men. I may say that I understand the Controller is making a proposal to Government in connection with the reclassification of hour rates which is designed to remedy this disability—if it may be so called—to a small extent by putting hour rates more or less on an incremental basis. But that is a proposal which has not yet reached Government. I understand it will come up shortly, and all I can say is that when it does come up, it will be carefully and sympathetically considered.

Then I think he mentioned the subject of pensions. Now as a result of the Piece-Workers Committee's Report, temporary hands after 25 years' service get a pension in the same way as permanent hands, so there is not very much difference in that way. There is a certain amount of difference as long as they are temporary that until they have done their 25 years, they cannot get an invalid or superannuation pension. That is a matter which possibly may be thought to be a grievance. Of course the real remedy to these disabilities is the institution of a Provident Fund. As I have already mentioned, I am afraid there has been some delay in instituting a Provident Fund, but when it is brought into effect these grievances will disappear.

I cannot lay my hand on any other particular grievance which my Honourable friend mentioned, and if I have omitted anything of importance, I must apologise to him. But I would make one last and final appeal to this Council, and that is this : I do not want to be understood to suggest that there are no grievances. Far from it. I have no doubt there must be grievances among a body of men like these piece-workers ; and all I am going to say now is this, —if there are any grievances and if they are put before Government in the ordinary way by the workers themselves, I will undertake that they will be very carefully and very sympathetically considered. There is a proper channel through which such grievances should come before Government, and that is through the Works Committee. I do not think my Honourable friend mentioned it, but there are committees which we have established recently, more or less on the lines of what they call Whitley Councils in England. They are committees of the workers and the management, and they are a means of bringing the workers themselves in direct touch with the management, so that the management may know their little grievances and all their troubles from the workers themselves. There was a little difficulty when the Works Committees were first established in getting the workers really to understand what they were about, and it was some time before these committees got working ; but I understand from the Controller that they are working extremely satisfactorily now and that the workers themselves are thoroughly content to bring their grievances before their Works Committees, where they are thoroughly considered and, if necessary, passed on to Government. I would suggest, therefore, that if there are any real grievances, as my Honourable friend tries to make out, the men should come up to the Government in the ordinary way. They have not done so yet, and I venture to think that, until they do so, it is hardly a case for the appointment of a committee of officials and non-officials to examine supposed grievances. I would ask the Council to do what the late Council did only a year ago, and not agree to the appointment of such a committee.

* THE HONOURABLE SAIYED MOHAMED PADSHA SAHIB BAHADUR (Madras: Muhammadan) : Sir, I have just had the pleasure of going into the case of the piece-workers, and I regret to say that, in spite of the recommendations of the Sarma Committee, and also in spite of the fact that some attempt was made to give effect to those recommendations, the lot of the piece-worker remains as it was. He is still ill-provided for, with no certainty of work or wages. Sir, if I understood the Government Member aright, he said that the earnings of these piece-workers were in no way smaller than those of the

* Speech not corrected by the Honourable Member.

[Saiyed Mohamed Padshah Sahib Bahadur.]

hands in the Government of India Presses who are in receipt of salaries. He said, Sir, that the starting pay the salaried hand got in these Presses was Rs. 55. I do not know if I have got it right. (*The Honourable Mr. A. H. Ley* : "Yes"). In that case, Sir, the minimum earnings of the piece-worker will also come up to about Rs. 50. But, Sir, what do we find ? I have a few figures which have just been sent to me by some people interested in the piece-workers, which go to show that more often than not many of these piece-workers get no more than Rs. 20 to Rs. 35. I think I have got the pay slip with me—I mean the pay slip of the Calcutta Government Press.

THE HONOURABLE MR. A. H. LEY (Industries and Labour Secretary) : May I ask, Sir, how long have these piece-workers been in service ?

THE HONOURABLE SAIED MOHAMED PADSHA SAHIB BAHADUR : I am not in a position to say that. That slip, however, shows that the piece-workers draw no more than Rs. 20 to Rs. 30 per month.

Again, Sir, this piece-work system was attempted to be defended on the ground that in other parts of the country there are a large number of press organisations which are run on this system. This contention, Sir, cannot hold water for a moment in the face of the evidence that was adduced before the Piece-Workers' Committee. Only a couple of years ago, the representatives of three of the largest presses in Calcutta, I mean the Caledonian Press and Messrs. Thacker, Spink and Co., stated before the Piece-Workers' Committee that, though they had adopted the piece-work system formerly, they had ultimately to give it up inasmuch as it was found to be extremely unwieldy and expensive. Now, Sir, it is an open secret that these private concerns are always run on the most economical lines, because the owners of these presses want to make the utmost amount of profit from their presses, and if even these private presses found this system, after all their honest and strenuous efforts to work it economically, to be unwieldy, complex and expensive, I do not understand how we can expect the present system which obtains in the Government of India Presses to be more economical or efficient.

Again, Sir, the House was asked not to accept this Resolution. I need not say that only in 1922 an investigation on the same lines was made by the Piece-Workers' Committee. May I ask, Sir, how far the recommendations of that Committee have been properly given effect to ? I see from the reply given the other day to some of the questions asked by my friend the Honourable Mr. Khaparde that, with the exception of a few recommendations, most of them have been given effect to, but I am afraid, Sir, that in giving effect to those recommendations, much has been done to militate against the very purpose for which the Committee had been appointed. I may, for instance, refer to the recommendation made for the abolition of the distinction between permanent and temporary establishment. From the reply that was given by Government it will be seen that this distinction has been done away with only in respect of persons who have put in the full 25 years' service, and it is therefore quite clear that if the concession has been extended at all, it has been extended only to a select few of the piece-workers. Only people who had 25 years' service could take advantage of this concession, and those who had put in 20 or even 24 years'

service or a little short of the minimum period of service, or who on account of any sudden illness, which is very common among people who are engaged in this class of work, had to retire earlier than the minimum period, have been precluded from taking advantage of this concession, because it is a *sine qua non* that everybody should put in 25 years' service so as to entitle them to the pension.

Again, Sir, while on this point, I may just refer to the two replies that have been given by the Government of India. As an excuse for not doing away with the distinction between temporary and permanent service, it has been said that there has not been enough work for the Presses. That is what we could gather from the replies. But on page 12, in reply to a question, the Government say that, owing to the want of sufficient staff, among other reasons, the Government are forced to give contracts to private presses.

THE HONOURABLE MR. A. H. LEY: May I correct the Honourable Member? It is not only a question of staff but of machinery.

THE HONOURABLE SAIYED MOHAMED PADSHA SAHIB BAHADUR: The Government Presses are doing all the work. My submission is that, though Government have all these people at their disposal, they are still giving out work to private presses.

Then again, Sir, it has been said that, in view of the recommendations of the Piece-Workers' Committee, arrangements have been made to see that people of an advanced age are given lighter work. I should like to know, Sir, what precisely those arrangements are, and whether any rule has been framed fixing the age of the workers so that the supervisors may deal fairly with the piece-workers. We often hear complaints that the younger people get lighter work while the older people are given heavier work. Unless there is some definite rule which will go to make this quite clear, so that this sort of favouritism may not be exercised, I think the recommendations of the Piece-Workers' Committee will not be observed.

Then again, Sir, they did not find it possible to adhere to the distinction between a regular paid man and an irregular one. This means hardship to the workers. Although the spirit is willing, sometimes the flesh is weak, and a man is unable to put in a proper attendance. The rule, as you will see, hits him in two ways, not only in depriving him of his wages for the days he has been ill, but for the period during which he might otherwise have received his wages if he had made himself eligible.

THE HONOURABLE THE PRESIDENT: The Honourable Member's time is up and he must bring his remarks to a close.

THE HONOURABLE SAIYED MOHAMED PADSHA SAHIB BAHADUR: I would like to point out that the Committee which reported in 1922 did not have the whole matter before it. It concerned itself with only one section, the piece-workers. There were other grievances, and I will refer to only one point in this connection.

THE HONOURABLE THE PRESIDENT: I am afraid the Honourable Member must content himself with general remarks. I cannot allow him to go into details.

THE HONOURABLE SAIYED MOHAMED PADSHA SAHIB BAHADUR: Some of the scales of pay recommended by them were mutilated by the officers. For instance, the scale of pay ranged from Rs. 60 to Rs. 110 by annual increments of Rs. 5. This was cut down to Rs. 45.

THE HONOURABLE THE PRESIDENT: The Honourable Member is doing now what I asked him not to do. Order, order.

THE HONOURABLE RAI BAHADUR NALININATH SETT (West Bengal : Non-Muhammadan): Sir, I rise to support the motion moved by my friend, the Honourable Mr. Lokenath Mukherjee. The subject concerns a large number of Government employees. My friend has shewn how these men suffer in various directions. The piece-workers are entirely in the hands of salaried men whose interest is to delay matters in order to get overtime allowances. They have to indent types from salaried men who are not in a hurry to supply them. Then they are dependent on the proof readers for the completion of a particular job. Lastly, their earnings are assessed on a basis in which they have no faith. It is the opinion of people who are acquainted with the intricacies of the working of this system that no two computors would arrive at the same figure in assessing a particular job. The interest of the piece-worker is to put in as much work in a day as possible, but he is entirely in the hands of salaried men who have no interest in doing a particular thing quickly. The distribution of work is in the hands of the section-holders who not unoften shew favouritism in selecting a particular man for a particular job. In addition to this iniquitous treatment, to which they have to submit, these men are subject to the imposition of a variety of fines for the slightest infringement of rules and procedure. In the result they can with the greatest difficulty and with the hardest labour make two ends meet. There is another very important point which it is the duty of this House to consider, namely, the fact that a piece-worker's earning decreases with his age. A man, as he grows old, cannot put in the same quantity of work as he could do when he was younger. His pension is computed on the basis of the work he can do during the last stage of his service. This is certainly opposed to all principles of justice. These men get very little holiday and the necessity for earning a decent living keeps them at work without any regard for their health. While Government are trying to control private employment of labour with a view to compel the employers to see to the comforts, conveniences and health of the employees, they ought, I submit, to see that their own employees do not suffer from the same defects.

I therefore urge that the system of piece-work ought to be abolished. If, however, Government think that they cannot do so in the near future, I think they ought to agree to appoint a Committee to go into the details of the working of the system and to suggest ways for ameliorating the condition of these workers. No doubt a Committee was appointed before, but these poor employees suffer from certain arrangements in the department which I am informed were not taken into consideration by the said Committee. After all these men should be made to feel that the Government are trying to improve their condition, and that can only be done by the appointment of a Committee as suggested by my friend.

THE HONOURABLE SIR MANECKJI BYRAMJI DADABHOY : (Central Provinces : Nominated Non-official) : Sir, if I intervene in this debate at this stage, it is not because I do not sympathise with the Honourable Mover of this Resolution in the object which he has in view, but because I feel that after the statement made by the Honourable the Government Member it will be unprofitable and useless to prolong this discussion any further.

My friend, the Honourable Srijut Lokenath Mukherjee was perfectly justified in bringing forward for the second time this Resolution for the consideration of this Council, and the reasons which he assigned in favour of his motion are entitled to our serious consideration. But at the same time I feel that the problem is not free from enormous difficulties. In some businesses piece-workers make more money than salaried men. I am also an employer of piece-work labour and the general complaint which has to be faced in some of the departments under me is that the salaried men have always rebelled at not being placed on the piece-work system so that they may be in a position to earn better wages than the salaried men. It is difficult, as I say, to express any positive opinion on this matter. In one department, in one avenue of business, piece-workers may thrive better than salaried men ; in another business the position may be entirely reversed. However, we have got the assurance from the Government Member that these piece-workers are receiving larger salaries by piece-work as compared with salaried men. I am prepared so far to accept the accuracy of that statement. This Resolution suggests an inquiry. But it has been pointed out to us that that inquiry has been already made by the Bengal Government, and the report has been presented and is now under the consideration of the Government of Bengal. That report has not been published.

THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : That inquiry was made for the employees of the Bengal Press.

THE HONOURABLE SIR MANECKJI BYRAMJI DADABHOY : But it will be admitted that a large class of these compositors work in the Bengal Press, and I understand in Simla already the men are on a salaried system. The Resolution asks for an inquiry. That inquiry has been made, I understand, by another Government, and the report is under consideration. Is it expedient, is it wise then that this Council should sanction the expenditure for another committee to go and traverse the very matter which has been considered by one committee ? I do not know what the recommendations of that Committee are. I understand that that report at present is a confidential document, and I have no right to ask our friend the Honourable Mr. Ley to tell us the purport of those recommendations till the Government of Bengal have fully and adequately considered the matter. However, as this Resolution involves a second inquiry, in my humble judgment such an inquiry is both unnecessary and superfluous, and I therefore appeal to the Honourable the Mover of this Resolution at present to withdraw his motion. If after the report of the Bengal Committee is published, he finds that the grievance still continues and that there are legitimate grounds for the redress of those grievances, he will have ample opportunity of moving another Resolution later on in this Council, and I have no doubt it will receive the most serious and sympathetic consideration of this Council.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : (Punjab : Nominated Non-official) : Sir, as I took part in the debate on the last occasion when my friend Mr. Khaparde brought forward a Resolution on this subject, representatives of the Press approached me to take part in this debate to-day, and I think it may be interesting to the House if I say something about it. I argued and was able to prove that throughout the country the piece-work system was the best, in which the best man earned the best wages and where a man who did not work suffered. And I was told that they liked piece-work and it was by some fluke or mistake that the Resolution which was sent in was so worded. They did not want that particular portion in it which concerned the abolition of the piece-work system. Of course the very men who were concerned with this Resolution did not want it as such, but their advocates, who had brought forward their case in this House, have very kindly done so.

Then comes the other side of the question of appointing a Committee of Enquiry. We are having committees always to go into various matters. No doubt some of these have done very good work, but after all committees that are appointed spend public money and sometimes the outturn of their work is not what one would wish for, and one has to object to such, because public money is wasted. In the arguments that I had put forward I was able to point out that various organisations of employees are generally not good for themselves. India is a young country and we still want to progress. We should take our cue from the countries which are more industrialised than we are, and we might first take England. Now there the workers have organised themselves, and what has happened ? The present trouble which is occurring there is entirely due to that. These workers would like to work as many hours as they wish and demand the salary they desire. I was able to point out that we who employ workers do not want such organisations because they are not in the interests of the country. I told them of one case, where one of the villages combined for a particular purpose and I came to know of it, and the four ring-leaders, of course, did not stay any longer in that village. They told me that there are lots of Government departments and it is a very good thing that there should be such organisations. I was again able to say that if there was such an organisation in the Army and the men got together to put their grievances before their officers, they would all be put under arrest. So that we have to take the good things from the Western countries, but not the bad ones, and if our workers begin to get their grievances redressed in this way, they will want Rs. 20 to-day, and if we give them Rs. 20, they will want Rs. 25 to-morrow. Nobody can satisfy human nature ; there should be a line drawn somewhere. So I think, if the grievances are real, there is no harm if they come up in the ordinary way, and every individual case should be treated on its merits, but it is impossible to have organisations like this and to go on satisfying them ; I think no department can do this. It is for this reason that I think this Resolution should not be accepted.

THE HONOURABLE THE PRESIDENT : The question is that the following Resolution be adopted :—

"This Council recommends to the Governor General in Council that the piece-work system in Government of India Presses may be abolished at an early date or, in the alter-

native, that a committee of officials and non-officials be appointed to enquire into the grievances of the employees of the Government of India Presses and suggest remedies."

The Council divided :

AYES—18.

Desika Chari, The Honourable Mr. P. C.
 Jaffer, The Honourable Sir Ebrahim
 Haroon.
 Mahendra Prasad, The Honourable Mr.
 Mehr Shah, The Honourable Nawab
 Sahibzada Sayad Mohammad.
 Morarji, The Honourable Mr. R. D.
 Muhammad Hussain, The Honourable
 Mian Ali Baksh.
 Mukherji, The Honourable Srijut Lokenath
 Oberoi, The Honourable Sardar Shivdev
 Singh.
 Padsha Sahib Bahadur, The Honourable
 Sayid Mohamed.

Ram Saran Das, The Honourable Rai
 Bahadur Lala.
 Rama Rau, The Honourable Rao Sahib
 Dr. U.
 Raza Ali, The Honourable Saiyid.
 Roy Choudhuri, The Honourable Mr. K. S.
 Sankaran Nair, The Honourable Sir
 Chettur.
 Sett, The Honourable Rai Bahadur Nalini-
 nath.
 Sinha, The Honourable Mr. Aangraha
 Narayan.
 Suhrawardy, The Honourable Mr. M.
 Zubair, The Honourable Shah Mohammad.

NOES—28.

Bell, The Honourable Mr. J. W. A.
 Bijay Chand Mahtab, The Honourable
 Maharajadhiraja Sir, of Burdwan.
 Charanjit Singh, The Honourable Sardar.
 Commander-in-Chief, His Excellency the.
 Corbett, The Honourable Mr. G. L.
 Creerar, The Honourable Mr. J.
 Dadabhoy, The Honourable Sir Maneckji
 Byramji.
 Das, The Honourable Mr. S. R.
 Emerson, The Honourable Mr. T.
 Froom, The Honourable Sir Arthur.
 Grey, The Honourable Mr. W. A.
 Habibullah, The Honourable Sir Muham-
 mad.
 Jukes, The Honourable Mr. J. E. C.
 Langley, The Honourable Mr. A.
 Ley, The Honourable Mr. A. H.
 Manmohandas Ramji, The Honourable
 Mr.

Misra, The Honourable Pandit Shyam
 Bihari.
 Nawab Ali Khan, The Honourable Raja.
 Sethna, The Honourable Sir Phiroze.
 Singh, The Honourable Maharajadhiraja
 Sir Rameshwara, of Darbhanga.
 Smyth, The Honourable Mr. J. W.
 Stow, The Honourable Mr. A. M.
 Symons, The Honourable Major-General
 T. H.
 Thompson, The Honourable Sir John
 Perronet.
 Tireman, The Honourable Mr. H.
 Umar Hayat Khan, The Honourable
 Colonel Nawab Sir.
 Wacha, The Honourable Sir Dinsaw
 Edulji.
 Weston, The Honourable Mr. D.

The motion was negatived.

RESOLUTION RE. INDIAN BANKING.

THE HONOURABLE THE PRESIDENT: The Council will now resume discussion of the Resolution* on the paper which was moved by the Honourable Sir Ebrahim Haroon Jaffer on the 10th March last.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Mr. President, I was absent from India for some months and returned to Simla yesterday. It was only late in the afternoon that I discovered that this Resolution, moved on March 10th during the Delhi Session, was adjourned and that the discussion on it was to take place to-day. I mention this because I had some notes and other facts and figures with me which, unfortunately, are not available at the moment of speaking, and which if I had with me would perhaps have enabled me to convince the House still more in favour of the Resolution. My Honourable friend's Resolution asks for an enquiry into the question of the desirability of legislation with a view to placing Indian banking on a sound footing. This might imply that perhaps Indian banking at present is not on a sound footing and requires to be put on a sound footing; or perhaps the Honourable Mover means that it is on a sound footing but requires to be put on a sounder footing. I am sure every Member of this House will agree with him in that desire of his.

No one will dispute the point that it is the bounden duty of every Government to see that investors of monies in banking institutions and such banking institutions themselves are protected by law as best possible by those Governments; and I venture to submit that nowhere throughout the British Empire is more attention paid to this subject than in the Dominion of Canada. In Canada they regard investments made in banks, as well as insurance premiums paid to insurance companies, as monies which belong very largely to the middle classes, and that consequently Government should take the greatest possible care in regard to such funds. In fact, they boast in Canada that since the introduction of the insurance legislation not a dollar has been lost in insurance business, and in the new insurance legislation that this Government will soon adopt, as also in any new banking legislation which we may hereafter propose to adopt, I think the Government of India will do well to follow the lines of the legislations adopted in that Dominion.

Honourable Members of this House must remember the fate which befell several indigenous banks in the year 1913. Previous to that there were several provident funds which grew up like mushrooms and Government introduced legislation whereby all these have been removed and insurance business is carried on on better lines. If similar legislation had been introduced in regard to banking, I hold that those Indian banks which failed in 1913 would not have failed; but perhaps if the legislation was stricter several of them would not even have come into existence at all.

The failures of 1913 have given Indian banking such a terrible setback that it will be no exaggeration to say that we have not yet recovered from it. It is no use now crying over spilt milk, and the best course to adopt is to see that Indian banking does progress and progress on right lines with the help of right legislation.

Banking on Western lines in this country is certainly in its infancy, but I will not say that banking generally is in its infancy in this country.

* Vide pp. 458-466 of Council of State Debates, Vol. VII, Nos. 1-23.

and I quite agree with the remarks which were made by my Honourable friend Mr. Manmohandas Ramji, when this Resolution was discussed on the floor of this House on the 10th of March last, that perhaps India and Indians knew more about banking and long before any other country in the world. While we say of Englishmen that they are the most conventional of European peoples, it may be urged in regard to Indians that they are more conventional than even the English in regard to their system of banking known as the 'Shroff' system. This system as practised to-day is perhaps the system which was in vogue in this country not decades ago but centuries ago, and it is high time that we improved upon it to suit modern conditions. In this matter I find an analogy as to what has happened in regard to Western medicine and the Unani system of medicine in this country. With the growth of Western education in this land, we take more kindly to Western medicine, and yet the Unani system progresses side by side. We recognise, for example, that while the Unani system has next to no surgery, and surgery has made such rapid strides in the West, that, because of our present system of education, we take more and more to Western medicines. Similarly, now that India is advancing faster in her commercial relations with other progressive countries in the world, it is necessary to follow the banking systems which are practised in Europe and America and which have made them the great countries that they are. Consequently, the Government of India should do everything possible in their power to push forward any legislation which will enhance and further the cause of banking in this country.

In spite of the help it receives from Government, the Imperial Bank of India has at the present moment not more than 150 to 160 branches, and that too because of the stipulation laid down by Government a few years ago that within a space of five years they should establish a certain number of branches. The number of branches of the other indigenous banks is insignificant. Compare this not only with the large number of banks in Europe and America but also their numerous branches. In some cases the number of these branches runs not into three but into four figures.

I will admit I am more than gratified to read the speech made in March last by the Honourable Member who represented Government in this House, I mean the then Finance Secretary, Mr. McWatters. Mr. McWatters in a most eloquent and a very excellent speech went much further than even the Honourable Mover of the Resolution himself. Speaking for Government, Mr. McWatters recognised the importance of the Resolution and he also promised every possible help, and the Council desired nothing further. Because of the distance of time since this Resolution was first discussed and to-day, I may recapitulate briefly what then fell from the Honourable Mr. McWatters. He pointed out that after the disastrous bank failures in 1913, Government recognised the necessity of legislation, and that with that view they consulted not only the Provincial Governments, but also various commercial bodies. The consensus of opinion of these different bodies was entirely in favour of legislation which the Government of the day would have undertaken were it not for the Great War that intervened then. Some years elapsed, and the question was re-opened at the instance of the Bengal Chamber of Commerce, when Government appointed a Committee. That Committee made certain suggestions.

[Sir Phiroze Sethna.]

Those suggestions were in turn submitted by the Central Government again to the Provincial Governments. The Provincial Governments improved upon those suggestions and made some more recommendations. The Government evidently approved of them all, but just then they were discussing in the United Kingdom some legislation in regard to banking, and unfortunately some of the leading banks there could not arrive at definite conclusions on very important points, and the question was again shelved in this country.

Now, Sir, in the course of the discussion on this subject some months back, it was pointed out by different speakers that one of the reasons why this Resolution was brought forward was because a particular bank suffered to some extent at the hands of perhaps a few interested people. Ordinarily I would not have referred to that bank or any bank by name, but as mention was made of the name of the Central Bank of India very freely on that occasion, I may be pardoned for referring to it to-day. I should like to mention, however, that I am not the only person in this House who is connected with the Central Bank of India, for besides myself there is my revered and respected friend Sir Dinshaw Wacha, and also my friend Rai Bahadur Lala Ram Saran Das, who are also on the Board of that institution. But what I want to impress upon this House is that not one of us had requested the Honourable Mover to bring forward this Resolution, nor am I aware that any one connected with the Central Bank of India, directly or indirectly, requested him to do so....

THE HONOURABLE SIR EBRAHIM HAROON JAFFER : I have made that point clear in my speech.

THE HONOURABLE SIR PHIROZE SETHNA ; I am sorry, I did not know that. I give my friend credit for it. I say that he has brought forward his Resolution purely in the interests of Indian banking.

In the course of the previous discussion, it was also pointed out that the Managing Director of the Central Bank made recommendations to the Government putting forward certain suggestions which would benefit banks and those who invest in banks. In regard to this, I should like to point out that banks stand on a different footing to other limited Companies. We may start false rumours with regard to any private company without doing it much damage. We may be shareholders of such a company to-day, and on the strength of such rumours we may dispose of our shares at a large or small loss, but the business of the company will continue to go on. Not so with a bank. Banks live on credit. The business of the banks is to borrow money at cheap rates and lend out at the best rate available, and the difference in such rates, less the cost of running the business, is the banks profit. If a false rumour is spread and the depositors make a run on the bank and the bank has to pay out money which it does not possess liquid, then naturally a crash follows. In that way, the doors of a perfectly sound banking institution might require to be closed, for absolutely no fault of its own, and it is against this that the Managing Director of the Central Bank of India requested the Bombay Government to safeguard banking institutions. Again one of the points I should like the House to remember in regard to banks is this, that the majority of the banks have an unpaid liability on their shares, and, therefore, if there is a run on a bank, and if the bank goes into liquidation, the position becomes serious not only for the shareholders but for the general community.

It is for this reason that the Managing Director of the Central Bank of India, not only for the benefit of his own institution, but for banking institutions generally in this country, advocated that legislation should be undertaken. He proposed three courses. First of all, he said that if people spread malicious reports, proceedings might be taken against them.

In regard to this the Government of Bombay explained quite rightly
1 P.M. that the present legislation does enable a bank to proceed
against any person who makes such malicious reports, because according to the terms of the section a "person" includes a "company."

The next point made was that undesirable shareholders might be excluded. That perhaps was considered a drastic step by the Government of Bombay. No good bank would try to exercise it unless forced to do so. The reply of the Government of Bombay was that the remedy was in the hands of the bank itself, that is to say, they may add an article to their articles of association whereby any undesirable shareholder might be removed on getting a three-fourths majority of the remaining shareholders to agree, and the shareholder so removed might be paid the value of the shares he holds according to the market value. Therefore, the Government of Bombay turned down that proposal as well.

The third proposal was in regard to preventing vexatious proceedings, and such vexatious proceedings might be either in a Civil or a Criminal Court. The Government of Bombay did not seem to encourage the Managing Director in his reply in regard to any legislation being introduced to prevent vexatious proceedings in civil suits, but so far as criminal suits were concerned, they were somewhat in favour of the suggestion made by the Managing Director. The suggestion was that nobody could rush into a police Court as he does to-day against a bank on some frivolous excuse without his facts and figures and take out proceedings against it. The suggestion was that in such a case the party should first obtain permission from a Judge in Chambers, so that it would only be possible to institute proceedings criminally if permission were granted by a High Court or a District Judge. Now, the Government of Bombay favoured this view, but the Government of India did not. The Government of India have three objections to the proposal of the Government of Bombay. First of all the Government of India say that this remedy does not touch that form of activity, namely, the spread of false rumours referred to in the letter of the Managing Director. The second objection of the Government of India is that if any legislation were introduced it might put obstacles in the way of perfectly *bona fide* complaints. Some *bona fide* shareholders may have certain legitimate grievances and there ought to be no hardship on such men, and they should not be required to go to the High Court for permission to take proceedings. Their last objection was that it would lead to many concerns which are not banks taking advantage of such legislation and claiming the benefit of coming under this legislation by saying they were banking institutions, and it is so difficult to define banks. In consequence of this the Government of India did not accept the suggestions of the Government of Bombay. As these are very important points and points on which the two Governments have differed, I am sure that if an enquiry

[Sir Phiroze Sethna.]

were made they would go into this question and afford protection not only to banking institutions but also to all those who invest in banks.

Mr. MacWatters made it very clear that during the last two years there have been sitting, and there will be sitting altogether, three committees. He particularly referred to the External Capital Committee's Report. The External Capital Committee was presided over by our present Finance Member.....

THE HONOURABLE THE PRESIDENT: The Honourable Member has exhausted his time. He might omit details of the Committee, of which I am sure the Council is perfectly aware.

THE HONOURABLE SIR PHIROZE SETHNA: Mr. MacWatters observed that what was necessary was the question of co-ordination, the law relating to negotiable instruments, the opening of an Institution of Indian Bankers, clearing out facilities, lowering of stamp fees on cheques, etc. If all these three points are disposed of satisfactorily by these Committees there is nothing more to be said; but if any of these points are not disposed of, I trust the Government will, in the near future, take up these points and settle them to the satisfaction of the Indian public and to the advantage of Indian banking.

THE HONOURABLE SIR EBRAHIM HAROON JAFFER: (Bombay Presidency: Muhammadan) Sir, I have no desire to take up the time of this Council unnecessarily, as it is more than one o'clock now, by repeating the arguments which I made in March last in this House.

I thank my Honourable friend, Sir Phiroze Sethna, who has just returned after performing an arduous public duty for which his countrymen are highly grateful to him, for the powerful speech he has just made in support of my Resolution. I may inform him and the Members of this House that I had a discussion about the subject-matter of my Resolution with my Honourable friend, Mr. Jukes, who is in charge of this Resolution on behalf of Government. I find from him that the Report of the Committee mentioned by his predecessor in this Council on 10th March last is at present under the consideration of the Government of India. It is therefore now no use in postponing the discussion of this Resolution again.

Sir, my Honourable friend opposite is willing to accept it on these conditions that, if the enquiries now in progress and about to be undertaken do not provide sufficient material for a decision as to the desirability of banking legislation, Government will be prepared to institute further enquiries. In any case, if the result of the enquiries made is to indicate the need for legislation, Government will certainly take legislation in hand.

Sir, I accept these conditions mentioned above, and I hope the House will now pass my Resolution unanimously.

THE HONOURABLE MR. J. E. C. JUKES (Finance Secretary): Sir, I rise to confirm what the Honourable Mover has said that Government are prepared to accept this Resolution on the conditions which he has stated.

THE HONOURABLE THE PRESIDENT: The question is that the following Resolution be adopted.

"That this Council recommends to the Governor General in Council that he may be pleased to order an inquiry into the question of the desirability of legislating with a view to place Indian banking on a sound footing".

The motion was adopted.

THE HONOURABLE THE PRESIDENT: I see that the Honourable Mr. Chari, in whose name the next business* stands, is not in his place.

The Council then adjourned till Eleven of the Clock on Tuesday, the 24th August 1926.

* **THE HONOURABLE MR. P. C. D. CHARI** to move the following Resolution :—

"This Council recommends to the Governor General in Council to constitute committee of officials and non-officials with a view to constitute Burma into a province with complete Self-government".

COUNCIL OF STATE.

Tuesday, the 24th August, 1926.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

QUESTION AND ANSWER.

NUMBER OF MEETINGS OF THE STANDING ADVISORY COMMITTEE OF THE DEPARTMENT OF COMMERCE HELD SO FAR IN 1926.

86. THE HONOURABLE MR. MANMOHANDAS RAMJI: (i) Will Government be pleased to say how many meetings of the Standing Advisory Committee of the Department of Commerce have been held so far this year?

(ii) With reference to the reply given by the Honourable Sir Alexander Muddiman to Sardar V. N. Mutalik on 2nd September 1925, will Government be pleased to say why not a single meeting of this Committee was called during 1925?

(iii) Did no important questions come before the Department of Commerce in 1925 that would have been helped to a solution by consultation with this Committee?

THE HONOURABLE MR. G. L. CORBETT: (i) None. The Standing Committee for the Department of Commerce for the current year has not yet been constituted, as all the gentlemen nominated to be members of the said Committee have not yet intimated their willingness to serve on it. They were addressed on the 24th March 1926.

(ii) and (iii) There was only one case ripe for submission to the Standing Advisory Committee of 1925, but by the time this case was ready the Council of State had been dissolved and the Committee ceased to exist. The facts of the case were, however, placed before the members of the Committee who were also Members of the Assembly.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill to amend the Usurious Loans Act, 1918, for certain purposes, a Bill further to amend the Workmen's Compensation Act, 1923, and a Bill further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for certain purposes, which Bills were passed by the Legislative Assembly at its meeting held on the 23rd August, 1926.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General): Sir, I very much regret my absence at the time when the Resolution which stood

[Mr. P. C. Desika Chari.]

in my name was called yesterday. It was purely a miscalculation on my part that the previous Resolution which was being discussed was likely to take some time. My Honourable friend Sir Phiroze Sethna was dealing with some new points, and I thought that the Government might take that opportunity of making a statement on those points and that in the meanwhile I could go down and refresh myself a little ; and when I returned I found the Council adjourned. I did not mean any disrespect or discourtesy to the Council in absenting myself ; it was wholly due to a mistake or miscalculation on my part in thinking that the previous Resolution would take some time. I hope under these circumstances the Council will accept my explanation for my absence yesterday and will acquit me of any act of discourtesy in being absent at the time my Resolution was called on.

THE HONOURABLE THE PRESIDENT : I am sure the Honourable Member intended no discourtesy to the Council, which will sympathise with him in the accident which prevented him from moving his important Resolution this session.

INDIAN DELEGATION TO THE LEAGUE OF NATIONS.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, in reply to the Resolution moved in this Council on the 17th February last by the Honourable Sir Phiroze Sethna, on the subject of the leadership of the Indian delegation to the Assembly of the League of Nations, I gave an undertaking to make an announcement as to how far Government have been able to give effect to the proposal underlying the Resolution. I am now in a position to announce that the following delegates and substitute delegates have been appointed for the forthcoming session of the Assembly of the League of Nations :

Delegates.

1. Sir William Vincent, K.C.S.I.
2. His Highness the Maharaja of Kapurthala.
3. Khan Bahadur Sheikh Abdul Qadir, Bar.-at-Law.

Substitute Delegates.

1. Sir E. Chamier, K.C.I.E.
2. Sir Ramaswami Ayyar, K.C.I.E., Member, Executive Council, Madras.
3. Sir B. K. Mullick, Kt., Judge, High Court, Patna.

It has throughout been the aim of the Secretary of State and the Government of India to secure the strong representation of Indian sentiment in the Indian delegation to the League of Nations, and for this reason two Indians have been selected each year to serve among the three delegates. With regard to the leadership of the delegation, somewhat different considerations arise. The discussions at the meeting of the Assembly invariably include in their scope difficult questions of foreign policy and international relations. For these in the case of India under the present constitutional arrangements, the Secretary of State for India is responsible, and as a Member of the British Cabinet he is

of necessity fully acquainted with the Government in regard to these matters. It has accordingly been customary to appoint persons to lead the delegation who, in addition to possessing personal knowledge of India and Indian conditions, have been in a position to appreciate the guiding principles of His Majesty's Government's foreign policy and are thereby specially qualified to carry out the responsibilities devolving on the Secretary of State in this regard. This system has worked satisfactorily in the past, and in present circumstances it is thought unnecessary to depart from it.

The Secretary of State, in consultation with the Government of India, has decided to increase the number of substitute delegates for this year's session from one to three, thus in comparison with last year enlarging the personnel of the Indian delegation from four to six, and the number of Indians on the delegation from two to four.

The advantage of appointing substitute delegates was brought to notice by the delegates of India after the last two meetings of the Assembly of the League. The question of continuing this practice in future and of the number of substitutes ordinarily required will be examined after experience of conditions at meetings this year.

THE HONOURABLE SAIYID RAZA ALI : Do I understand the Honourable Member to say that the delegation will be headed by the Secretary of State for India ?

THE HONOURABLE MR. S. R. DAS : No, Sir. I have already stated in my announcement that it will be headed by Sir William Vincent, K.C.S.I.

INDIAN EVIDENCE (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I beg to move that the Bill further to amend the Indian Evidence Act, 1872, for a certain purpose, be taken into consideration.

This Bill intends to amend section 68 of the Indian Evidence Act under which, if a document is attested, in order to prove that document one attesting witness has to be called if he is alive and capable of being called. In accordance with the suggestion of the Civil Justice Committee the present Bill intends to get rid of any necessity to call an attesting witness if the document is a registered document unless execution is expressly denied. It is thought that registration itself is a *prima facie* proof that the document has been properly executed and that it is unnecessary to take up the time of Courts in calling attesting witnesses unless execution has been specifically denied.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-official) : Sir, I support this Bill. It is a piece of belated legislation. This legislation ought to have been placed on the Statute-book over ten years ago. It will have a very salutary effect in saving litigants a considerable amount of time and expenditure. It will expedite the dispensation of justice and the execution of judicial functions. But the Bill as it is framed does not, I fear, meet to its fullest extent the object or the purpose

[Sir Maneckji Dadabhoy.]

for which it is intended. I quite see the advisability and the necessity of dispensing with the proof of the execution of the document in case of major defendants. But, as my learned friend, Mr. Das, from his long experience at the Bar must know, difficulty would arise in the case of minor defendants, where a person is made a defendant and he dies before the stage of pleadings is reached or when the original executant of the document dies and his minor heirs succeed to the property and the case is defended by them through their guardian *ad litem* or the next friend. The difficulty would arise because the guardian *ad litem* or the next friend would not be in a position to deny specifically the execution of the document, and I think in such cases of minor defendants, it is absolutely necessary that the execution of the document should be proved, to avoid further trouble and future litigation. I therefore think it is advisable that, after the word "that" the following words be inserted, namely, "except in the case of minor defendants", and I beg to move that amendment.

THE HONOURABLE THE PRESIDENT: Does the Honourable the Law Member desire to take objection to the amendment on the ground of want of notice?

THE HONOURABLE MR. S. R. DAS: I was going to suggest to the Honourable Member that he should not press this amendment now. He has brought the matter to my notice and I intend to consider it. If we think it is necessary, we shall introduce the amendment in another place, but I should like time to consider this amendment and I would ask my Honourable friend not to press it now.

THE HONOURABLE SIR MANECKJI DADABHOY: In the circumstances explained by my Honourable friend I am willing to agree to his suggestion and will not press my amendment; but I hope he will take this matter into his consideration when this Bill is taken to the other House, because it is a very important defect and will otherwise cause a great deal of inconvenience and trouble.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Evidence Act, 1872, for a certain purpose, be taken into consideration.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS: Sir, I move that the Bill be passed.
The motion was adopted.

ADMINISTRATOR GENERAL'S (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I move that the Bill further to amend the Administrator General's Act, 1913, be taken into consideration.

Under the present Administrator General's Act, the Administrator General can grant a certificate to the claimant of the assets of a deceased person entitl-

ing him to receive those assets if the assets do not exceed Rs. 1,000. The Civil Justice Committee recommended that that limit should be increased to Rs. 3,000. The Government, after taking the opinion of the Local Governments and other authorities, decided to increase that limit to Rs. 2,000 instead of Rs. 3,000, in the first place, because it would affect the revenue to a certain extent if the limit is extended to Rs. 3,000, and also because the grant of a certificate by the Administrator General has not those safeguards which the grant of letters of administration or a succession certificate involves. The Bill therefore is to extend the limit to Rs. 2,000. There are consequential amendments in the Act which are also proposed by this Bill.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-official) : Sir, I would like to make one or two observations in connection with this Bill. The recommendation of the Civil Justice Committee was made after careful consideration, and after taking some evidence they decided and recommended a limit of Rs. 3,000. The Government of India have reduced that limit from Rs. 3,000 to Rs. 2,000 on two grounds, firstly, because of the loss of revenue to the State, and, secondly, because the Government of India are of opinion that as letters of administration provide a number of safeguards which do not attach to the certificates given by the Administrator General, they think it unnecessary to keep the limit at Rs. 3,000. Now, in my humble opinion, both these arguments are unsupportable. In the first instance, the loss of revenue to the State will not be very considerable, and that is a question for the Provincial Governments to decide, and I understand they have accepted not only the principle of the Bill—at least I speak subject to correction—but that many of the Provincial Governments have not objected to the limit being fixed at Rs. 3,000. I know from personal experience that in the case of very small estates—that of poor clerks and other people—a great deal of inconvenience is caused to their wives and children, and for small and insignificant estates they have to put the machinery of the Administrator General in motion, apply for letters of administration, spend a lot of time and money in litigation which they can ill-afford. I feel that the relief which was recommended by the Civil Justice Committee in this matter was very proper, just and equitable and that the Government of India, in my humble opinion, have not acted with much prudence in reducing that limit. As regards the second point, namely, the number of safeguards which are attached to letters of administration and not to a certificate which is given by the Administrator General, I think the matter is of very very small consequence. If the parties prefer to take the risk of taking a certificate instead of letters of administration, it is their lookout and business. I am decidedly of opinion that the limit should not be reduced and that the limit recommended by the Civil Justice Committee should be promptly restored as it will give a measure of necessary relief to a large class of poor and indigent people who cannot possibly afford to undergo the expenses of obtaining letters of administration. I therefore beg to move the amendment that for the figures "2,000," the figures "3,000" be inserted.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : On a point of order, Sir. Should this discussion take place now or

[Saiyid Raza Ali.]

when clause 2 is reached in due course, when considering the clauses one by one.

THE HONOURABLE THE PRESIDENT: If the Honourable Member desires to move the amendment, he should move it when clause 2 is put to the House for consideration.

The motion before the House is:—

“That the Bill as a whole be taken into consideration.”

THE HONOURABLE SIR MANECKJI DADABHOY: Subject to the above remarks, Sir, I resume my seat.

THE HONOURABLE MR. S. R. DAS: Perhaps I may say something with regard to the Honourable Member's suggestion now, before the amendment is moved, though perhaps it would be more regular to do so when he moves the amendment. But I might point out to this House that my Honourable friend is not accurate in stating that the Local Governments supported the proposal for Rs. 3,000. Some Local Governments did but other Local Governments opposed the suggestion. But I should like to point out that, although one of the reasons why the Government did not accept the extension of the limit to Rs. 3,000 was its effect on the revenue, the real reason and the main reason which guided them was that the grant of a certificate by the Administrator General did not have those safeguards which the grant of letters of administration had, and that is a very important point because it is not a question of the persons who apply for the certificate to the Administrator General taking any risk. The risk is of those who are really entitled to it and who may not have approached the Administrator General or may not even have noticed that an application had been made to the Administrator General to grant a certificate. Moreover, if you take letters of administration, you have got to give security for due administration of the estate, whereas in the case of grant of a certificate by the Administrator General, no security need be given. I will ask my Honourable friend to bear this in mind that to a family or to a person who leaves assets of the value of Rs. 3,000, it is a very large sum. It may not be to my Honourable friend or to the Members of this House, but to a family, a member of which leaves Rs. 3,000 as the whole of his assets, it is a very large sum and it is not safe that a claimant should be allowed to receive that sum, say, from the insurance company upon a certificate from the Administrator General without giving any security that after he has received it he will duly administer it. It is these considerations, coupled with some of the objections taken by the Local Governments, that induced the Government to reduce the limit to Rs. 2,000 from Rs. 3,000.

THE HONOURABLE THE PRESIDENT: The question is:—

“That the Bill further to amend the Administrator General's Act, 1913, be taken into consideration.”

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:—

“That clause 2 do stand part of the Bill.”

THE HONOURABLE SIR MANECKJI DADABHOY : Sir, I now formally move my amendment :

"That for the words 'two thousand' the words 'three thousand' be substituted."

I have heard with much interest the reply of the Honourable the Law Member in this connection. I am glad to find that I have been corrected on one specific point that some of the Local Governments did not agree to the figure of Rs. 3,000 but the others have agreed. My learned friend has also candidly stated that the question of revenue was not a very important one, but the fact which principally induced the Government to reduce the figure from Rs. 3,000 to Rs. 2,000 was that the grant of letters of administration was accompanied by a number of safeguards which did not attach to the grant of an ordinary certificate by an Administrator General. My friend also substantiated his argument by stating that the applicant will have to give security when applying for letters of administration, which is not necessary in the case of a certificate. I submit, Sir, that contention strengthens my argument rather than weakens it. The very fact that it will be necessary for the children of a deceased to apply for letters of administration and to find out a security in addition for the purpose of successfully obtaining them will always be a very difficult task ; from my personal experience as a lawyer for many years I can say it is very difficult for poor people to obtain reliable men to stand security in this connection. This proves that it is necessary that this relief which I claim should be given. Further, as I have already pointed out, you cannot attach much importance to the fact of the letters of administration giving additional safeguards, which is a matter solely for the heirs of the deceased to consider. If they think that in ordinary circumstances a certificate will be quite sufficient and that they will be able, on obtaining the certificate, to manage the estate of the deceased, the matter entirely rests there. It is the business of the party concerned. I do not think there is a great deal of sanctity attached to the grant of letters of administration. I therefore press this objection of mine in the interest of a large class of destitute people who, I know, cannot afford the expenditure of a cumbrous litigation and for whom every rupee saved means a great thing.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, I strongly support the amendment. Considering the matter from the point of view of the general public, they would rather like even the limit of Rs. 3,000 to be raised to Rs. 5,000. The public ought to be very thankful to Sir Maneckji Dadabhoy for bringing forward this amendment, which I think the House ought to accept.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, it appears from the Statement of Objects and Reasons that the Government of India consulted Local Governments on a number of points raised in the Civil Justice Committee's Report, and particularly on the point incorporated in this clause of the Bill which is now before the Council. Unfortunately, the Honourable the Law Member did not give a clear indication in his opening speech, if I followed him correctly, as to whether the preponderance of opinions submitted by the Local Governments on this point was in favour of reducing the amount from Rs. 3,000 to Rs. 2,000. It appears that there is a conflict of opinion between the Local Governments, but had

[Saiyid Raza Ali.]

the Honourable Member given us a summary of those opinions, I believe that would have been very helpful to this Council.

THE HONOURABLE SIR MANECKJI DADABHOY: The Honourable Member has said that the question of revenue is not an important question.

THE HONOURABLE SAIYID RAZA ALI: Sir, I never raised the question of revenue. I am not discussing the question of revenue at this stage. I am just referring to the opinions of the Local Governments. In the next place, the Honourable the Law Member did not mention whether the High Courts were consulted on this question at all, and, if so, what was the weight of the opinions of the High Courts. I hope the Honourable the Law Member will say a few words so as to make it quite clear what view most of the Local Governments and the High Courts who were consulted took.

Now, coming to the merits of the case, I believe the question of revenue is not one that should be given a go-by by the Government on a consideration of this question. No doubt, when letters of administration are applied for, the chief object of the State is not to replenish its coffers but to see that the interests of the parties concerned are properly safeguarded. The question of revenue, however, remembering that the keeping up of a costly system of courts of law means expenditure of money, is not one that should be totally ignored. But I am quite sure that the Honourable the Law Member is on very firm ground when he says that the real difference between the cases for grant of letters of administration and of a certificate lies in the fact that, if you apply for letters of administration, you have to give security to meet the claims of those who may hereafter challenge the claim of the person who has obtained such letters of administration. I believe, looking to this very great safeguard that is given by the Administration and Probate Act, it would certainly be a course not free from risk to raise the amount from Rs. 2,000, as mentioned in the Bill, to Rs. 3,000, as proposed in the amendment of the Honourable Sir Maneckji Dadabhoy.

The claims of all parties have to be considered. That is one of the most vital functions of our law Courts. I therefore think that the clause of the Bill as it stands is quite a reasonable one and that if we raise this amount from Rs. 2,000 to Rs. 3,000, we will certainly be placing in jeopardy the claims of any party that may really be entitled to challenge the grant of a certificate. I therefore support clause 2 of the Bill.

THE HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): From my long experience of companies, I do confirm what my Honourable friend Sir Maneckji Dadabhoy has said. There is not the slightest doubt that it is a hardship. Very many cases have come before me in connection with the companies I have the honour to represent. I remember very well most of the complaints came from poor shareholders in this matter. In cases under my consideration complainants referred to amounts under existing rules requiring them to take out letters of administration which entail considerable expense. Most of the Joint Stock Companies in Bombay in such cases accept Indemnity Bonds in lieu of letters of administration. I think it will be a great relief to poor people if Sir Maneckji's amendment is carried. That is my view.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : I rise to endorse fully what my friends the Honourable Sir Maneckji Dadabhoy and the Honourable Sir Dinshaw Wacha have said in this connection. In the interests of the poor classes, it is essential that the House should accept the amendment.

THE HONOURABLE SIR ARTHUR FROOM : (Bombay Chamber of Commerce) : There is one point I should like to raise and that is the question of revenue. If I understood the Law Member aright he said that the question of revenue is unimportant.

THE HONOURABLE MR. S. R. DAS : I said the question of revenue is important; but that is not the main reason or the real reason for reducing the figure to Rs. 2,000. It is an important question, but the really important point which affected our decision is the want of safeguards.

THE HONOURABLE SIR ARTHUR FROOM I am much obliged to the Honourable the Law Member. The question of revenue is important. Many Members of this House are not lawyers and if we could have some idea of the loss of revenue owing to the raising of the figure to Rs. 3,000 we would be in a better position to form some opinion on this point. If the amount is raised to Rs. 3,000, Government might lose some revenue, but the heir to the small estate would benefit. Supposing the claim amounts to Rs. 2,500, the claimant could get a certificate from the Administrator General and he would not have to pay for the court-fee stamp for the letters of administration and, therefore, to that extent Sir Maneckji Dadabhoy's amendment appears to be in favour of the heir to small estates.

Another point on which I should like to hear from the Law Member is this. If the Administrator General has granted a certificate to a claimant for Rs. 2,500 and afterwards another claimant comes forward and the second claimant has the better claim, is the Administrator General responsible ? He is not responsible. If the first claimant has got the Rs. 2,500 and spent the lot, where will the second and rightful claimant get his money from ?

I think on the question of revenue everything is in favour of the limit being raised to Rs. 3,000 ; but, as the Honourable the Law Member has pointed out, the question of safeguard for small estates is an important one, and I think the Honourable Members of this House should carefully consider this question of safeguard.

THE HONOURABLE MR. S. R. DAS : Sir, I should like to make the position quite clear, as there seems to be some misunderstanding on the point. I did not intend to say that the question of revenue is not of any importance at all. It is of some importance because it affects Local Governments. The actual duty paid on Rs. 3,000 is not large, but there are quite a large number of estates where people leave assets of Rs. 3,000 and over, and in the total it does amount to something. What I want to point out is this. The main reason which influenced the Government of India was really the question of safeguards. Now, I should like to point out for Members of this House who are not lawyers that, before a grant can be made of letters of administration, notice of the application has to be given to the other relatives and has to be advertised and a guarantee has to be given for due administration, and finally he

[Mr. S. R. Das.]

has to file in Court an inventory of the assets realised and the accounts of his dealings therewith. That is in the case of a grant of letters of administration. Under a grant by the Administrator General, none of these conditions are requisite. That is to say, a man who gets a certificate from the Administrator General, before he gets it, has not got to give notice at all to the other relatives. No advertisement need appear in the papers that he is claiming the amount, and, finally, no guarantee has to be given by him that he will duly administer the assets. These are great safeguards. As I pointed out in my opening speech, the man who leaves Rs. 3,000 as his sole assets is a small man. The claimant comes along and claims the money. The Administrator General, after all, can only take certain precautions, but he cannot ask him to give notice. It is not necessary. He cannot ask him to give a guarantee that he will spend the money properly. If he is satisfied he grants a certificate, and if that man takes the money out from the Insurance Company and chooses to misuse it, there is no remedy. The real persons who are entitled to it can proceed against him, but he may be a man of no means at all. The Administrator General is perfectly safe. No action can be brought against him so long as he has taken all precautions. It is considerations of this nature that induced the Government, having regard to the views of some of the authorities consulted, to keep the limit at Rs. 2,000. I may mention that Local Governments, Judges of the High Court and the Administrators General were consulted, and I am bound to say that the preponderance of opinion was in favour of accepting the amount fixed by the Civil Justice Committee; but those who opposed it were rather vehement and pointed out that it may lead to a great deal of abuse if the limit were raised. In fact some of the authorities objected to raising the limit at all. In these circumstances, Government decided to keep the limit at Rs. 2,000 only. I have no doubt that, so far as the question of hardship is concerned, it would not only be better, so far as the poor people are concerned, to raise the limit to Rs. 3,000, but I think the Honourable Sir Umar Hayat Khan is somewhat more logical than my Honourable friend, Sir Maneckji Dadabhoy; because if you look at it from the point of view of hardship only, why limit it to Rs. 3,000? Why not Rs. 5,000? Why not Rs. 10,000? I quite agree with Sir Maneckji Dadabhoy that it is difficult sometimes to get the necessary security. But if that is going to be the consideration, I should think it is more difficult to get a surety where the estate left is a lakh of rupees than in a case where it is Rs. 2,000 or Rs. 3,000. If that is one of the reasons I should extend the limit to a lakh of rupees. It would undoubtedly give relief to a very large number of persons. After all you have got to consider this matter from all points of view, and although one may say there is not much difference between Rs. 2,000 and Rs. 3,000, there is a certain amount of difference. If we had said Rs. 3,000, my Honourable friend might have said "Raise it to Rs. 4,000." (*The Honourable Sir Maneckji Dadabhoy*: "No, no."). I said that if we had accepted the Civil Justice Committee's recommendation to raise the limit to Rs. 3,000, there would be nothing to prevent my Honourable friend suggesting that it should be raised to Rs. 4,000, (*The Honourable Sir Maneckji Dadabhoy*: "I would not have done it") because after all there is very little difference between Rs. 3,000 and Rs. 4,000. We have got to take all these matters into consideration and we thought that,

having regard to the fact that a sum of Rs. 3,000 is a very large sum for a family one of whose members leaves assets to the value of Rs. 3,000 and no more, it should not be extended beyond Rs. 2,000. I therefore would ask the House to accept the clause as it has been drafted.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What would be the loss in revenue if the amendment is adopted?

THE HONOURABLE MR. S. R. DAS: It is impossible to say that because it would vary in different Local Governments. Bengal has different court fees from Madras and from that of Bombay. It would involve a very laborious calculation to discover the exact amount of loss.

THE HONOURABLE SIR MANECKJI DADABHOY: It would probably be very little proportionately.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 2 stand part of the Bill"

since which an amendment has been moved—

"That in clause 2 for the words 'two thousand' the words 'three thousand' be substituted."

The question now before the House is that that amendment be made.

(As the names of Honourable Members were being called out, an Honourable Member gave his vote without rising in his place.)

THE HONOURABLE THE PRESIDENT: I think the Honourable Member is perfectly well aware of the rule of the House, a rule laid down by the first President of the Council, that when a division is taken and an Honourable Member's name is called, he should rise in his place and give his vote, and in future I shall have to enforce that rule. Any vote which is given by a Member sitting in his place will not be recorded.

The Council divided :

AYES—12.

Bell, The Honourable Mr. J. W. A.
Dadabhoj, The Honourable Sir
Maneckji Byramji.

Desika Chari, The Honourable Mr.
P. C.

Jaffer, The Honourable Sir Ebrahim
Heron.

Muhammad Hussain, The Honourable
Mian Ali Baksh.

Mukherji, The Honourable Srijut
Lokenath.

Oberoi, The Honourable Sardar
Shivdev Singh.

Ram Saran Das, The Honourable Rai
Bahadur Lala.

Roy Choudhuri, the Honourable
Mr. K. S.

Singh, The Honourable Raja Sir
Harnam.

Umar Hayat Khan, The Honourable
Colonel Nawab, Sir.

Wacha, The Honourable Sir Dinshaw
Edulji.

NOES—22.

Commander-in-Chief, His Excellency the.	Misra, The Honourable Pandit Shyam Bihari.
Corbett, The Honourable Mr. G. L.	Morarji, The Honourable Mr. R. D.
Crerar, The Honourable Mr. J.	Raza Ali, The Honourable Saiyid.
Das, The Honourable Mr. S. R.	Sankaran Nair, The Honourable Sir Chettur.
Emerson, The Honourable Mr. T.	Sett, The Honourable Rai Bahadur Nalininath.
Froom, The Honourable Sir Arthur.	Smyth, The Honourable Mr. J. W.
Gray, The Honourable Mr. W. A.	Stow, The Honourable Mr. A. M.
Habibullah, The Honourable Sir Muhammad,	Suhrawardy, The Honourable Mr. M.
Langley, The Honourable Mr. A. Ley, The Honourable Mr. A. H.	Symons, The Honourable Major-General T. H.
Manmohandas Ramji, The Honourable Mr.	Tireman, The Honourable Mr. H.
	Weston, The Honourable Mr. D.

The motion was negatived.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS : I move, Sir, that the Bill be passed.
The motion was adopted.

INDIAN COMPANIES (AMENDMENT) BILL.

THE HONOURABLE MR. G. L. CORBETT (Commerce Secretary) : Sir, I beg to move that the Bill further to amend the Indian Companies Act, 1913, for a certain purpose, be taken into consideration.

This is a short and simple Bill but I am afraid I must go back to some rather ancient history to explain the need for it.

Section 26 of the Indian Companies Act, 1913, provides for the registration of associations formed "for promoting commerce, art, science, charity, or any other useful object," and not for profit. Sub-section (1) of that section runs as follows :—

"Where it is proved to the satisfaction of the Local Government that an association capable of being formed as a limited company has been or is about to be formed for promoting commerce, art, science, charity, or any other useful object, and applies or intends to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may, by license under the hand of one of its Secretaries, direct that the Association be registered as a company with limited liability, without the addition of the word 'Limited' to its name, and the association may be registered accordingly."

In the corresponding section 20 of the English Act which is otherwise in identical language, the word "religion" is inserted between "science" and "charity".

The object of the present Bill is to amend the Indian Act so as to bring it into line with the English Act.

First, I must explain how the word "religion" came to be omitted from the Indian Act, and for this I must go back to the proceedings of the old Indian Legislative Council in 1881, when the old Indian Companies Act of 1882 was before it. The Honourable Mr. Stokes, who introduced the Bill, referred to this section and said :

"This section did not, like the corresponding English clause, apply to religious societies, those bodies being, it was thought, sufficiently provided for by Act I of 1880."

Act I of 1880 is the Religious Societies Act. This Act, however, is very limited in scope. It is a short Act and is chiefly concerned with subsidiary matters such as the appointment of new trustees. It does not provide at all either for incorporation or for the administration of property. At the same time, however, it is clear that the omission of the word "religion" from the section of the Companies Act of 1882 was deliberate, and, in these circumstances, it is considered doubtful whether it would be held that religion is covered by the general phrase "any other useful object" in that section.

There is another Act under which associations of this character may also be registered, that is the Societies Registration Act of 1860. But this Act, again, provides for societies "established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, or for charitable purposes;" but this again does not specify religious purposes.

Actually, associations for religious purposes have been registered both under section 26 of the Indian Companies Act and under this Societies Registration Act, but it is doubtful whether this registration is really valid.

When the Companies Act, 1913, was under consideration this question was never referred to—I have been through the departmental examination and also through the discussion in the Council and it was never raised at all. The corresponding section of the old Act of 1882 was followed, and the word "religion" continued to be omitted. Recently, however, we have been asked to amend the Companies Act in the manner proposed, that is, by inserting the word "religion" between the words "science" and "charity" and so removing all doubt. In 1922, the Metropolitan Bishop of Calcutta raised the question, and again, in 1924, it was raised by the Bengal Chamber of Commerce. At that time, however, there seemed no great urgency to remedy a position which had not been questioned for more than 40 years. The amendment was marked for inclusion at the next opportunity when the Companies Act would be before the Legislature, and the matter was shelved. Now, however, it has become more pressing in connection with the Indian Church Measure, which has been under discussion for the last few years. At present the bulk of the property of the Church in India is held by the Bishop of the diocese as a corporation sole by virtue of the letters patent erecting the See. But if the Indian Church Measure becomes law, it is the desire of the Bishops and of the Provincial Council of the Church that it should be possible to vest such property in a body or bodies of trustees registered under section 26 of the Indian Companies Act. This Bill has accordingly been introduced in order to remove all doubt as to the validity of such registration. I now move that the Bill be taken into consideration.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill further to amend the Indian Companies Act, 1913, for a certain purpose, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. G. L. CORBETT : I move that the Bill be passed.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I just want to inquire at this stage from the Honourable Mr. Corbett whether the income of charitable and religious bodies which the Honourable Member wants to include in this Bill, which is exempt now, will be liable to income-tax.

THE HONOURABLE MR. G. L. CORBETT : I am afraid, Sir, that is a point I have not considered. I approached this matter entirely from the point of view of the Ecclesiastical Department in which I am Secretary, and not in my capacity as Commerce Secretary.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill further to amend the Indian Companies Act, 1913, for a certain purpose, be passed."

The motion was adopted.

SIND COURTS (SUPPLEMENTARY) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary) : Sir, I move that the Bill to supplement the Sind Courts Act, 1926, be taken into consideration.

I have very little to add to the very brief statement I made when asking for leave to introduce this Bill. It is a purely formal measure and involves no question of substance. If this motion is passed, I shall have two further minor drafting amendments to make at that stage. I move that the Bill be taken into consideration.

The motion was adopted.

Clause 2 was added to the Bill.

THE HONOURABLE MR. J. CRERAR : Sir, I move that after clause 2 the following clause be added, namely :—

"3. Part I of the First Schedule and Part I of the Second Schedule to the Sind Courts Repeals. Act, 1926, are hereby repealed."

The motion was adopted.

12 Noon. The Schedule was added to the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

"That clause 1 do stand part of the Bill."

THE HONOURABLE MR. J. CRERAR : Sir, I move :

"That in sub-clause (2) of clause 1 for the words 'on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint' the words 'on the commencement of the Sind Courts Act, 1926' be substituted."

It is obviously desirable that the date of the commencement of both the Acts should be identical and this amendment will have that effect.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR : Sir, I move that the Bill be passed.

THE HONOURABLE THE PRESIDENT : I presume the Honourable Member means the Bill, as amended.

THE HONOURABLE MR. J. CRERAR : Yes, Sir, I move that the Bill, as amended, be passed.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill to supplement the Sind Courts Act, 1926, as amended, be passed."

The motion was adopted.

CANTONMENTS (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I beg to move that the Bill further to amend the Cantonments Act, 1924, for certain purposes, be taken into consideration.

As I mentioned when introducing this Bill, the objects of these amendments are not of very great importance and they are fully set out in the Statement of Objects and Reasons. It may be asked why it is necessary to bring in amendments to an Act of 1924. We asked for certain amendments last year and again we are asking for some amendments this year. The reason for this is that, though the enactment is so new, namely, that of 1924, it set up an entirely new organisation in the administration of our cantonments and, in the light of the experience gained, we brought forward certain amendments last year and are again bringing forward some amendments this year.

THE HONOURABLE SIR EBRAHIM HAROON JAFFER (Bombay Presidency : Muhammadan) : Sir, I rise not to oppose the motion before the House. I am sorry to observe that the Government of India are introducing an amending Bill every year. May I ask whether it will not be desirable if the whole matter is taken up once for all? It is well known, specially amongst non-official Members, that there are several defects in the original Act. Will it not be a very satisfactory way of doing things if the whole Act is taken up at a stretch? This can easily be done by appointing a small committee of the selected Executive Officers and non-official Vice-Presidents of the Boards to go through the Act and suggest remedies. The present piecemeal amendment of the Act is very unsatisfactory and likely to cause confusion. I am quite conscious of the sympathy which His Excellency the Commander-in-

[Sir Ebrahim Haroon Jaffer.]

Chief has for the cantonment civil population, and I am sure my suggestion will receive due consideration.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI (Punjab : Sikh) : Sir, I want to make a few observations about the Bill proposed by His Excellency the Commander-in-Chief. It deals with some of the amendments to the existing Cantonments Act of 1924, and some of the clauses provided in this measure are really praiseworthy because they give power to the Cantonment Authority to spend some portion of their funds for the education of the children of the population who reside in the cantonment jurisdiction but where the institution is outside the cantonment limit. I regard this clause to improve the educational condition of the children of the cantonment residents and of that portion of the population who reside within the cantonment limit as a very good one.

The other clauses of the Bill deal with certain changes. It is proposed by this measure to substitute "Officer Commanding-in-Chief, the Command" for "Officer Commanding the District" in section 277. This is also quite a necessary change, and I do not think the House has any objection to this change, because His Excellency the Commander-in-Chief has thought fit to put in a higher officer instead of the Officer Commanding the District.

There is only one clause of this Bill which appears to me to snatch away a certain right from the servants of the Cantonment Authorities of appeal in case they are ordered by the Cantonment Authority to be dismissed. In this clause, of course, I do not see eye to eye with His Excellency, because this is a right which was given by the Act of 1924 to the servants of Cantonment Authorities of making a second appeal to a higher authority than the Officer Commanding the Station. I think this right should not be snatched away from the servants of the Cantonment Authorities. Of course I would put in an amendment to delete this clause at the time when the consideration of this clause comes up. But I make an observation on this at this time. I find that the Honourable the proposer of the Bill has stated in the Statement of Objects and Reasons on the subject that—

"the provision for a second appeal in this section is inconsistent with rules 11 and 12 of the Cantonment Fund Servants Rules."

I tried to find these Rules but I am sorry that I have not been able to find them. So I cannot see what inconsistency there is between these Rules and the language of the Act. If His Excellency enlightens me on this point that there is an inconsistency and also on the other point that the Cantonment Fund Servants Rules, which are to be amended shortly, will include a right of second appeal to the higher authorities on the part of the servants who are dismissed by the first authority, I would not have to put in this amendment. As it stands, I take objection to it, and I shall propose an amendment for the deletion of this clause when the time comes.

His EXCELLENCY THE COMMANDER-IN-CHIEF : I think, Sir, that my Honourable colleague is not quite aware of what we really are proposing. When a cantonment servant is punished by the executive officer he has an appeal first of all to the Cantonment Authorities. After that, he has still another appeal to the General Officer Commanding-in-Chief. This, I think, ought

quite to satisfy the Honourable Member on that point. My Honourable Colleague (the Honourable the Leader of the House) informs me that that is the principle which applies to all Government servants. The General Officer Commanding-in-Chief takes the position of the Local Government in that respect. The servant of a Local Government has first of all the right of appeal to the Cantonment Committee itself and later on to the General Officer Commanding-in-Chief.

I understand that my Honourable friend Sir Ebrahim Haroon Jaffer wishes to make no amendment whatever.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill further to amend the Cantonments Act, 1924, for certain purposes, be taken into consideration."

The motion was adopted.

Clauses 2, 3, 4, 5, 6, 7 and 8 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 9. Does the Honourable Sardar Sahib wish to speak ?

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : I have not been able to follow what His Excellency the Commander-in-Chief said about the right of appeal. I want to know if a servant of the cantonment is dismissed by the local Cantonment Authority and he appeals to the Officer Commanding the District and does not get satisfaction, has he got a further right of appeal ?

HIS EXCELLENCE THE COMMANDER-IN-CHIEF : The right of appeal does not lie with the District Commander as it is considered that he is fully occupied with his military duties; the right of appeal will therefore lie to the Officer Commanding-in-Chief of the Command. For example, in Sialkot, the servant of the cantonment has got the right of appeal first to the Cantonment Committee and then to the General Officer Commanding-in-Chief of the Northern Army.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : Beyond that there is no right of appeal.

HIS EXCELLENCE THE COMMANDER-IN-CHIEF : No.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : Then I submit that this clause should be deleted.

HIS EXCELLENCE THE COMMANDER-IN-CHIEF : I think the Honourable Member is making a ~~big~~ mistake. There is a second appeal. The first appeal is to the Cantonment Authorities and, if the man does not get satisfaction from them, there is a right of appeal to the General Officer Commanding-in-Chief of the Command.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : That meets my point.

THE HONOURABLE THE PRESIDENT : The question is :

"That clause 9 do stand part of the Bill."

The motion was adopted.

[The President.]

Clause 9 was added to the Bill.

Clauses 10 and 11 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I move that the Bill be passed.

The motion was adopted.

INDIAN LIMITATION (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS: (Law Member): I move that the Bill further to amend the Indian Limitation Act, 1908, for certain purposes, be taken into consideration.

This Bill is intended to give effect to certain recommendations of the Civil Justice Committee to amend the Limitation Act. I will explain to the House what these amendments are. Under the present Limitation Act, a part payment of a debt has to be in the handwriting of the person making the part payment, but there is no such provision with regard to the payment of interest, and the Civil Justice Committee recommended that the payment of interest should also be in the handwriting of the person who pays the interest. The first amendment is with a view to give effect to that recommendation. Then the Civil Justice Committee also recommended, as there had been certain doubts as to whether limited owners under the Hindu law could acknowledge a debt on behalf of the estate or whether a *karta* or manager of the joint Hindu family could make acknowledgments or part payments, that the law should be made clear. They also made a suggestion with regard to Article 132. Under Article 132 of the Limitation Act, 12 years' limitation is allowed for enforcing payment of money charged on land and immoveable property. But a question arose, and different High Courts gave different decisions, as to whether when it was not money which was specifically charged on land but something which could be valued as money, Article 132 applied or not. For instance where payment was to be in paddy or grain, which was charged on the land, the question arose whether a suit for enforcing payment of that could come under Article 132 or not, a distinction having been attempted to be made between money and the produce of land. The Civil Justice Committee recommended that the point should be made clear and this Bill attempts to make it quite clear that any payment in produce of land which is charged on land ought to come under Article 132. They also suggested an amendment of Article 166 of the Limitation Act and I will read to you their recommendations on that Article: They said:

"There is a difference of opinion as to whether this Article which deals with the petition to set aside a sale in execution of a decree applies when the petition is by the judgment debtor under section 47 of the Civil Procedure Code. It is sometimes contended that that Article applies only to a petition under Order 21, Rule 90. It will be better if the matter is made clear by adding words 'including a petition under section 47 of the Civil Procedure Code' in the first column."

This Bill seeks to give effect to that recommendation. These are all the sections which are attempted to be embodied in the present Bill.

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS: I move that the Bill be passed.

The motion was adopted.

HINDU FAMILY TRANSACTIONS BILL.

THE HONOURABLE MR. S. R. DAS: (Law Member): Sir, I move that the Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu law shall, in certain cases, be effected by written and registered instruments, be circulated for the purpose of eliciting opinions thereon.

The Civil Justice Committee in their Report pointed out that a good deal of conflict of evidence and thereby delay in the administration of justice takes place by reason of separations of interest and partition in Hindu joint families being permissible without any registered document or even a written instrument, and they suggested that a registered instrument should always be required in the case of separation of interest and that no partition of the whole or any part of the immoveable property belonging to such family should be valid unless the sale could be made by registered instrument. They pointed out of course that registered instruments should not be necessary where a decree for partition has been passed or any instrument of partition has been made by a Revenue Officer, because there the conflict of evidence is not likely to be very great.

The Bill attempts to give effect to that recommendation. They also pointed out that there is always a good deal of conflict of oral evidence in the case of surrenders by a widow or release of his interest by a coparcener and in the case of family settlements and grants for maintenance, all of which can be effected even without a written document. They suggest that in those cases it should be effected only by registered instruments if immoveable property of the value of more than Rs. 100 is affected thereby. The Bill attempts to give effect to those recommendations, and, as this may raise questions on which there may be difference of opinion, all that I am moving now is that this Bill be circulated for the purpose of eliciting opinions thereon.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, while I have no objection to the Bill being circulated, I wish to say that I cannot congratulate the Honourable the Law Member upon bringing forward this Bill. It seems to me to be a very retrograde measure. The anxiety to save the time of Courts in determining questions of fact cannot justify a measure of this sort. Many of my Honourable friends here are aware that the undue rigours of the joint Hindu family law as it is

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administered in Madras and other Presidencies have been sought to be relaxed by judicial decisions for the last quarter of a century. A member of an undivided Hindu family who has got only daughters and no sons knows what it is to die without a partition. Many eminent judges like the late Sir V. Bashiam Iyengar, Sir Subramania Iyer and my Honourable colleague, Sir Sankaran Nair, who has had a distinguished career on the Madras Bench, and Sir T. Sadasiva Aiyar have all pointed out that the original Hindu law as promulgated by Manu was nothing so severe as judicial pronouncements sought to make it ; and the country hailed the decision of the Judicial Committee of the Privy Council with regard to this question of separation of status in a joint family with great joy. The Judicial Committee said that a unilateral expression of intention to separate was quite sufficient to make members of a family divided ; and a mere notice by a coparcener that he wished to become divided was enough to make him separate. Now, what this Bill seeks to enact is this ; unless a partition in writing by all the members of the family is actually executed and registered there can be no separation even in status. One of the clauses says so. It is difficult to get other members of a family to agree to a partition, especially when one member with only daughters and no sons is about to die, because the surviving members will get the whole of the property and they will not naturally agree to a partition being executed or registered. We also know that no coparcener of a Hindu family can execute a valid will and that no coparcener can execute a deed of gift either unless the transaction is entered into for consideration : and therefore as the law stands there is absolutely no way by which a dying coparcener can make provision for his unfortunate female children ; and the rigidity of the law as interpreted by Courts in earlier years has been considerably relaxed by the beneficent efforts of eminent judges both in India and in England. This Bill seeks to do away with one stroke of the pen with what has been thus achieved in a quarter of a century. I am very sorry to say that this Bill really tries to put back the clock of progress by a quarter of a century and all this for the simple reason that the Civil Justice Committee is anxious to see that the time of the Civil Courts is saved in determining questions of fact. No Civil Court can really escape determining questions of fact, because ultimately almost every question of law is based upon a finding of fact ; and our anxiety to save the time of Courts ought not to carry us to such ridiculous lengths as to make us go back on judicial decisions in Hindu law in the direction of progress. As regards other clauses of the Bill, like those dealing with registration of maintenance deeds in favour of unfortunate widows, who cannot ~~really~~ enforce their rights against refractory members of their family, they work considerable hardship, and it will not save the time of Courts if difficulties are placed in the way of easy settlement of maintenance to widows. The Honourable Member was refreshingly vague when he said he had *considerable* support for this Bill. Considerable is a delightfully vague term, and I wish I had been told something of the extent of the support. Members of Hindu joint families certainly will not welcome it. At any rate the Honourable Member only proposes to circulate it now and fortunately he does not ask the Council to take it into consideration. There is no objection to the motion as it stands, but I wish to enter my emphatic protest against both the principle and the details of this proposed legislation.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI (Punjab : Sikh) : Sir, the time for considering the merits and demerits of the Bill has not yet come ; so I would like to make no observations about them now. But one or two points struck me which I would like the Honourable Member in charge of the Bill to kindly explain and enlighten the House. This Bill as it stands concerns only that part of the Hindu population which is governed by Hindu law. I understand there is another law called customary law by which a portion of the Hindu community is also governed ; and I also know as a fact—and probably every Honourable member knows this—that there is another portion of the population which is not governed by Hindu law and there are properties owned by this portion of the population ; there are divisions which take place among this section and there are transactions which are made amongst the members of families in this section as regards the management of the property. I would like the Honourable Member to throw light kindly upon these points as to why the Bill has been made to affect that portion of the Hindu population which is governed by the Hindu law.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support my friend, the Honourable Mr. Ramadas Pantulu, and to endorse fully what he has said as regards this proposal.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : Sir, the Bill is certainly a very retrograde measure, a measure which is designed to take away the benefits which by the course of decisions the Hindu population of this country have secured bit by bit. We thought that the Judicial Committee of the Privy Council after a good deal of doubts expressed in various quarters had set the law at rest as regards the status of people concerning the conditions necessary to effect a partition in a Hindu Joint family, and as regards the conditions necessary for a person to keep himself clear of all the trammels which the Hindu joint family law, as it is now administered, imposes upon the individual. I cannot understand why for securing this doubtful benefit, namely, saving the time of Courts, the course of decisions which has conferred a benefit upon a large section of the people is sought to be taken away at one stroke by a Bill of this sort. No doubt this was recommended by a body of people who were entrusted with the duty of finding out how to save the time of Courts. Very likely the gentlemen who are responsible for making recommendations of this kind, which are sought to be embodied in a Statute by this Bill, gave undue prominence in their anxiety to shorten the course of trials to that aspect of the question rather than to the benefits which are likely to accrue or the hardships which are likely to result if these proposals are passed into law.

I find that all the provisions of this Bill would not meet the exigencies of the case, because they are not after all likely to minimise the work of the Courts or help considerably the Courts in coming to a decision as to whether the status of a person is divided or undivided with reference to a joint family. After all, there are various other considerations which will have to be taken into account before arriving at a finding whether a person is a member of a joint Hindu family or not, and in almost every case the Courts will be confronted with these questions as regards the divided or undivided status of a person to be gone into by the Courts. After all the Bill is not likely to confer a

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benefit and if it does confer a benefit, the benefit is secured by a good deal of hardship which will accrue by the provisions of the Act being applied to members of Hindu families. I find the Bill is not coming up for consideration, it is only a motion for circulation, and I believe by the time the Bill comes up before the House after circulation, it will be found that there is a good deal of opposition to the provisions which are sought to be introduced by this Bill.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-official) : Sir, this is not the time to speak at any considerable length on the merits of the provisions involved in this Bill. But I must confess my difficulty in following the arguments of two of my Honourable colleagues, the Honourable Mr. Pantulu and Mr. Chari. It was urged by my friend opposite that this Bill proposes to trespass on the principles of Hindu law laid down by some of the most eminent judges of the Madras High Court, that it affects in some measure the general principles and the status of the people, and the benefits that will accrue on the passing of such a measure will be at the most of a very doubtful kind. I do not know on what authority these statements are made. So far as I understand the Bill, it affects no principle whatsoever of Hindu law. It does not affect any cardinal principle as far as I am aware. I acknowledge my knowledge of Hindu law is probably not so extensive as that of my eminent Hindu friends, but I say this much with confidence that, as far as I am aware, there is no dictum laid down by ancient Hindu law-givers that the partition of all coparcenary property should be only orally made and that no document of any kind is necessary to enforce such a partition. On the other hand, the practice which has been prevailing among the educated members of the Hindu community for many years, I mean when they desire to break up the coparcenary family property, is to resort to unregistered documents. My friend, Mr. Ramadas Pantulu, ought to be particularly aware of the number of cases of oral partitions that often come up before the Civil Courts for adjudication, of the flagrant subornation of evidence that takes place and the absolute difficulty of arriving at a right decision. Some partitions date back to 30 or 40 years before disputes are raised and the matters come before the Civil Courts. These Courts have to decide in many cases on perjured and wilfully suborned evidence and also oftentimes on evidence of a very weak and flimsy character. My friend is also aware that where documents have been executed and partitions effected by written documents but not registered, a wide door is thrown open for the perpetration of forgery. In many cases documents absolutely fabricated and forged have been produced in proof of partition of coparcenary estates. These are facts which my Honourable friend cannot be said not to be aware of. Now, by the adoption of a legislation of this character making registration compulsory in cases where immoveable property exceeds Rs. 1,000, I am unable to understand how it will affect the interests of the Hindu community in any way. In one way it will afford ample protection and security against forged documents being set up. On the other hand, it will make the work of the judges called upon to decide these cases much more simple and easy, and in many cases it will save Hindu litigants a considerable amount of expenditure in money as well as in time. I quite see that there is one serious objection to the registration of these documents

and that is that it will affect the purse of the joint Hindu family. These documents when registered will have to bear a stamp duty, and in many cases the stamp duty will be of a very heavy character. I can quite understand that type of objection. But after all, the security which the parties will obtain will amply compensate for the expenditure involved in the payment of the stamp duty. I do not see any reason why the ordinary common law should not make it obligatory for such documents to be registered. If you execute a sale deed, if you execute any deed of transfer, it must be executed by a registered document. I do not differentiate the case of a division of property and the transfer of one set of property by one coparcener to the other as being distinguishable from other transfers in which registration has been enforced. I do not see any inequity in the enforcement of the registration. My friend, the Honourable Mr. Chari, spoke of the doubtful nature of the benefit. I must say I cannot agree with him. The benefit will not be of a doubtful nature but of a sure and certain character. Where a document is registered, the benefit will be of an absolutely real nature and character, and I think the Hindu community as a whole ought to be glad that the Government, by a beneficent legislation of this character propose to place their estates after their demise on a sound footing so as to prevent the perpetration of fraud and to ensure them a full measure of safety and security of possession.

THE HONOURABLE MR. S. R. DAS : Sir, I do not propose to take up the time of the House in replying to the observations which have fallen from Honourable Members with reference to this Bill. It was because the Government felt that this was a Bill on which there may be considerable difference of opinion that they decided to move for the circulation of this Bill for the purpose of eliciting opinions. When the Bill is finally considered, the opinions which have been expressed to-day will of course receive every proper weight. But I am bound to say that I do not think my friend the Honourable Mr. Ramadas Pantulu is really right in taking up such violent opposition to the Bill. I think that if he reconsiders the matter and reads the Bill over again he will find that it does not affect any of the rights which are conferred on Hindus under the Hindu Law, unless my friend goes to the length of saying that it does affect his right, because he is entitled at present to have an oral partition, while the Bill requires that partition should be by written and registered instruments. Beyond that, I do not think that if he reads this Bill he will find that it really intends to cut or take away any of the present rights under the Hindu law. However, as I have said, it is not worth while taking up the time of the House now by entering into a lengthy disquisition on the points which my Honourable friend has put forward. All we are asking for now is that the Bill be circulated for the purpose of eliciting opinions thereon.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : What about my question, Sir ?

THE HONOURABLE MR. S. R. DAS : I am sorry I did not quite appreciate the question which has been put by my Honourable friend. The Bill intends to deal only with persons who are governed by the Hindu law. It is not intended to deal with persons who are covered either by the Muhammadan law or by customary law or by any other law, because it is obvious that it

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will be a most complicated and confusing affair if one Bill were to attempt to deal with all classes of people. It is intended to be confined to persons who are governed by the Hindu law.

THE HONOURABLE THE PRESIDENT: The question is:—

“That the Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu Law shall, in certain cases, be effected by written and registered instruments, be circulated for the purpose of eliciting opinions thereon.”

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 25th August 1926.

COUNCIL OF STATE.

Wednesday, the 25th August, 1926.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

RESOLUTION *re* REPORT OF THE TAXATION ENQUIRY COMMITTEE.

THE HONOURABLE MR. J. E. C. JUKES (Finance Secretary): Sir, I beg to move the Resolution that stands in my name:

"This Council recommends to the Governor General in Council that he be pleased to take into consideration the Report of the Indian Taxation Enquiry Committee."

The Resolution is cast in somewhat unusual form and I should like to begin by explaining the reasons which have led Government to adopt this innovation in the matter of wording. The Government are most anxious to hear the opinions of Honourable Members of this House before coming to any definite conclusions upon the numerous important recommendations contained in the Committee's Report. The very number of those recommendations made it, however, impossible to word the Resolution in such a way as to commit this House to a definite line of action upon the Report as a whole. In order to secure a debate it was necessary to word the Resolution in non-committal terms. With the wording actually adopted, it will be possible for each Member of this House to discuss those portions of the Report in which he is particularly interested; and in view of the number of succulent dishes on the menu one may hazard a guess that the task of selection may not always be an entirely easy one. Indeed, Sir, I notice that the fear of intellectual indigestion has apparently overcome one Honourable Member, who proposes to follow the example set elsewhere and to suggest to this House that it should entirely decline the invitation to the banquet. It would be interesting, Sir, to see whether the Honourable Member carries consistency sufficiently far to refuse to take part in the general budget debate in this House when it takes place next spring.

The task which the Taxation Enquiry Committee took upon itself was one of great complexity and of great difficulty. It set out to examine the whole range of taxation in India, its incidence, its equity and its distribution between local, provincial and central authorities. It engaged to seek for practical and theoretical defects in the existing system from each of these aspects, and to propose remedies for defects when discovered. It undertook finally to report upon the desirability of alternative sources of taxation. It was a comprehensive task and one involving no mean labour. In the result, the Committee frankly admitted itself baffled by the question of incidence; the materials available were insufficient on which to formulate anything more than very general conclusions. For the rest, whatever views individual Honourable Members may take upon the individual recommendations of the Committee,

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it cannot be denied that the Members of the Committee have left a monument of their labours which will be of inestimable value to India. The seven volumes of this Report constitute a priceless storehouse of information for every student of taxation in India, whether he be a ludding graduate, a Member of the Legislature or even a mere Government official. He will find in these pages a very complete history of existing taxation, many useful comparisons with systems obtaining in other countries and valuable contributions to the theory of taxation generally.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-official) : But you have not supplied us with these seven volumes.

THE HONOURABLE MR. J. E. C. JUKES : They are available and can be purchased from the Government Press. In view of the uses to which the volumes will undoubtedly be put in the future, there can be no doubt that they will keep the memory of the Committee green for many years to come.

This, Sir, is what the Committee has done. I should now like to stress one thing which the Committee has not done and was not asked to do. It was no part of its duties to make any recommendations as to the amount of revenue which should be raised by taxation. I have seen criticisms which suggest that the principal object of Government in instituting the Committee was to secure suggestions for new taxes and thereby to enable the various Governments in India to impose greater burdens upon their tax-payers. I hope it is not necessary to assure this House that any criticism of this kind is entirely unjustified. It is quite true that the Committee has suggested the exploration of new fields of taxation. This was inevitable in view of the fact that it proposed the reduction of certain taxes and the entire abolition of others. If it had contented itself with mere demolition without any attempt at reconstruction, it would have left half its task unfulfilled. I would, however, invite the attention of the House to the way in which the Committee has formulated its final conclusions. It contented itself with scheduling its proposed reductions and new imposts in what it considered to be the proper order of precedence. It did not advise that we should increase or reduce taxation merely in order to increase or reduce our revenue. It did not even suggest that we should increase or reduce taxation without regard to the result upon our revenues. It said in effect that, if at any time we were in a position to reduce taxation, they recommended the reduction of such and such taxes ; if we desired to make good a loss or to raise additional revenue, they recommended such and such new taxes. In a word, Sir, the Committee has stuck to its last and has made no recommendation at all as to the amount of revenue which should be raised. May I express the hope that this Council will follow the example of the Committee in that respect ? Taxation is always unpleasant—to the tax-payer—but it is a necessary evil if the State is to continue to function. Its amount is decided not on any theoretical considerations but, with reference to the financial needs of the hour. Roughly speaking, the revenue raised in any given year must be sufficient to meet the expenditure of that year ; and the amount of the expenditure is decided at the proper time and place by the authorities duly empowered in this behalf.

I must not be understood to suggest that no Government in India will ever utilise the suggestions of the Committee in order to raise new revenue by taxation. It is quite possible that increased expenditure may be necessary and that it may be essential to explore new fields of taxation. Any such proposals must, however, be embodied in legislation and must come up for consideration in the Legislature concerned before they can be introduced. It is for this reason that I suggest that we should not waste time to-day in discussing matters which can far more suitably be handled on another and more appropriate occasion.

It will, I think, be generally admitted that the comprehensive survey of the whole field of Indian taxation which has been undertaken by the Committee has come at a very opportune moment. As a result of the constitutional changes of 1919, India has taken the first steps along the road which leads to the institution of a federal form of Government. It is fashionable to deplore the shortness of those steps; though some of us would prefer to characterise them as very considerable strides. Whatever their length, the fact remains that they have been taken, and that it is possible to look forward in the future to steady progress along that road until the various Provincial Governments develop into a federation in the true sense of the word. In organizing a federation the question of finance is one of outstanding importance. It is essential to demarcate with the greatest possible exactitude not only the duties of the constituent States and their Central Government but also the resources which each will command. It is equally essential to insure that each of the Governments is provided with sufficient resources from which to finance the services for which it is responsible. If friction is to be avoided, it is desirable that the demarcation should be as exact as it is possible to make it. There should be no room for encroachment by one of the constituent States upon the fields of revenue reserved for another or for the Central Government. Of almost equal importance from the point of view of the constituent States is the demarcation of duties and resources as between these States and the various local authorities which they may establish within their territories. Here, too, very similar considerations apply. With the Report of the Indian Taxation Enquiry Committee in our hands, we are now for the first time in the position to make a complete examination of the existing constitution from the point of view of the demarcation of resources. Before advancing too far from the road of federalization, we can send spies in advance to see that the federation building is structurally sound and that it is in every way adapted to meet the needs of its future occupants. All the materials for such an examination are here. These volumes contain, as I have already said, a very complete history of existing taxes. They state the authorities by which each tax is levied. They criticise the practical sufficiency of the resources at the disposal of Local Governments, as well as the theoretical desirability of certain of our taxes. They draw, in many cases, useful lessons from the experience of other federations. They make valuable contributions to the theory of taxation generally. Whether or not we accept individual recommendations of the Committee, we cannot deny that the Committee has provided us with very full materials for the inquiry which we desire to make.

I do not think I shall be doing injustice to the Committee if I select the following as among the most important of the many important conclusions

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which are embodied in the Report. The Committee holds that certain of our taxes may with advantage be replaced by others which are theoretically more desirable. It sees reasons to suppose that the resources actually employed by the Local Governments are not sufficiently elastic. It suggests that the existing system leaves openings for encroachments by one authority upon the fields of taxation reserved for another and, lastly, it suggests that there is considerable room for improvement in the methods of collection of local taxation. Without committing Government at this stage to any expression of opinion as to the correctness of these conclusions or the adequacy of the remedies proposed to meet alleged defects, I should like to offer one or two general comments on the very important problems involved in these conclusions.

In criticising the theoretical desirability of certain of our taxes, the Committee has opened^{*} up a very interesting question for discussion. Its criticisms extend to every field of taxation in India. Of central taxes, certain of our export duties and the weight of the import duties on such articles as sugar, among other items, have attracted the Committee's attention. The provincial capitation and Thathameda taxes in Burma have received emphatic condemnation. The octroi and terminal taxes, on which so many of our municipalities rely for the bulk of their revenues, have also come in for criticism. Government will welcome the assistance of Honourable Members of this House in arriving at conclusions upon the very difficult questions involved. I should, however, like to remind the House of two things. Firstly, that there is probably not a Government in the world whose taxes are not to some extent open to theoretical objection and, secondly, that, in order to remove an objection of this kind, it is necessary either to forgo the revenue concerned or to evolve some satisfactory substitute. The way to the evolution of a substitute may be beset with difficulties, practical or even political, which will operate to make the remedy worse than the disease which it is desired to cure. There is one other point in this connection to which I should like to invite the attention of the House, and that is the comments of the Committee on the extent to which municipal taxation operates as transit duties on inter-provincial trade. It is impossible to exaggerate, from the point of view of the future federation, the desirability of securing free movement of trade within British India.

The second of the Committee's conclusions to which I should like to refer is that which suggests that the revenues at the disposal of Local Governments are not sufficiently elastic. This also is a point of very great importance. The bulk of the burden of what are commonly known as the nation-building services is borne by the Local Governments. It is for them to develop education, sanitation and other similarly beneficent activities. In order to do so, they must be assured of revenues which may be expected to expand steadily over a series of years. They may indeed at times find it necessary to impose additional taxation. It was the Local Governments that I had primarily in mind when I suggested that the suggestions of the Committee might be utilised in order to raise increased revenue. So far as the Central Government is concerned, it seems unlikely, in the absence of some grave calamity, that any increase of taxation will be necessary in the near future.

The tendency has recently been all the other way. We have reduced the salt tax, abolished the cotton excise duty and lowered our railway tariffs, and all this simultaneously with no inconsiderable reduction in the provincial contributions. It is always dangerous to prophesy, but it is probably safe to say that there is no immediate prospect that the Central Government will require to raise additional revenue for its own purposes. The case of the Provinces is, as I have said, entirely different. If any Province deliberately decides to make a considerable expansion of its nation-building activities, it will naturally require more revenues. If, therefore, it can be established that the resources now at the disposal of the Provinces, including—and this is most important—those taxes within their field which they have hitherto refrained from levying, are insufficiently elastic, it will be necessary to take into serious consideration the question of providing them with greater possibilities of expansion.

There are certain passages in the Committee's Report which suggest that the existing system gives opportunities for encroachment by one authority upon the field of revenue reserved for another. One example is that of imported foreign liquor. The Committee suggests that the fees for possession, levied by certain Provincial Governments, operate to exhaust a margin of taxation which could, and should, be utilised by the Central Government in increasing the import duties. Again, it is stated that the tax on professions and trades, which is generally levied by municipalities in Madras, does not essentially differ from an income-tax. If this be true, this is another case of encroachment upon a central sphere of revenue. Yet another example is given by the Committee when it suggests that the existing law as regards octroi and terminal tax makes it possible for these taxes to be imposed upon articles which should be liable to central taxation only; and the Government of India recently received striking proof of this when a terminal tax on exported salt was proposed for levy by the District Local Board of a district which contained a very large and important Government salt mine. Another example of leakage, if not of encroachment, is afforded by the remarks of the Committee upon the tendency of revenue from stamp duties to accrue in Provinces other than those in which the taxed transactions arise. All these examples—and the list is not nearly exhaustive—point to the need of a very careful examination of the party-walls of our federation building before we move into complete occupation of it.

It remains to deal with the remarks of the Committee as regards the collection of local taxation. This is a question which should give serious food for thought to all those who are interested in the development of local self-government in India. I had occasion last year, in an official capacity, to peruse report after report submitted by the Local Fund examiners of the various Provinces. I am afraid, Sir, that they made sorry reading. It was the same story everywhere. There were honourable exceptions in every province; but the general story was that municipal collections were in a chronic state of serious arrear; and I am afraid it was too frequently added that the principal defaulters were the Municipal Councillors themselves. (Hear, hear.) It is a truism, Sir, that no community can hope to govern itself if it will not consent to tax itself. Some radical change in this respect is essential if India is to make any real progress along the path of local self-government. I do

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not propose at this stage to commit Government to an opinion upon the heroic remedy suggested by the Committee itself. That is indeed a matter primarily for the consideration of Local Governments rather than of the Government of India. Some remedy is, however, essential if India is to develop upon the lines which we all desire.

I have made, Sir, a few general comments upon certain of the most important of the many important problems arising in connection with this question of taxation. My object in doing so was to point out that there are a number of matters in this connection in relation to which the wealth of wisdom and experience which is concentrated in this House can assist Government with constructive proposals. I realise, Sir, that I have done no more than touch the fringe of the subject, and that it would take the greater part of a week and a tongue far more eloquent than mine to do it anything approaching complete justice. I realise also that the time at our disposal is limited and that Honourable Members will be able to find a far better way of utilising it than by listening to what can be after all nothing more than introductory remarks. For I must emphasise the fact that I am not, and shall not be even at the conclusion of this debate, in a position to announce the definite conclusions of Government upon any of the important questions involved. A number of those questions are primarily for the consideration of Local Governments, and on practically all of them consultation with the Provinces will be necessary. A great deal of the preliminary spade work has already been done and we shall shortly be in a position to make the necessary references. I am confident, Sir, that, as a result of to-day's debate, if we are allowed to have a debate at all, the task of Government will be greatly simplified; and in that confidence I commend my Resolution to the careful consideration of this House. (Loud applause.)

THE HONOURABLE THE PRESIDENT : Resolution moved :

"This Council recommends to the Governor General in Council that he be pleased to take into consideration the Report of the Indian Taxation Enquiry Committee."

There is a motion of a dilatory nature of which notice has been given by the Honourable Dr. Rama Rau. It suggests the adjournment of this discussion and I think the House would like to dispose of that question before it enters upon a discussion of the merits of the Resolution. I therefore propose to call on the Honourable Dr. Rama Rau to move his motion, but I will ask him in the first place to omit from his motion all the words beginning with the words "since no discussion of any constructive nature". These words are mere argument and as I could not admit them as a part of a substantive Resolution, I do not think that they should stand as part of the motion. I would also ask him and those who follow him to remember that in the event of his amendment being lost, every one will have an opportunity of speaking again on the main Resolution. I would therefore suggest to Honourable Members who desire to speak on this motion that they should make their speeches as short as possible and confine themselves very strictly to the point at issue.

*THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras : Non-Muhammadan) : I have no objection to make the alteration which you have

suggested, and with your permission, Sir, I should like to substitute for the words "sine die" the words "till the next Session."

THE HONOURABLE THE PRESIDENT: Does the Honourable Member wish to omit the words "sine die"?

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Yes, Sir, and to substitute therefor "till the next Session."

THE HONOURABLE THE PRESIDENT: The Honourable Member may do so.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: My amendment will then run:

"That the discussion on the Report of the Indian Taxation Enquiry Committee be adjourned till the next Session of the Council."

I must remind the House that the terms of reference of this Enquiry Committee were limited, and that also the appointment of the Committee was effected in spite of a good deal of protest. In the first place I for one, Sir, am against any fresh taxation until the people get full control of the finances. I do not say anything about the Committee's Report. It contains a mass of literature—literature intended for students who study taxation. It contains a very good dissertation on taxation. Unless and until the Government come out with definite proposals, the discussion will be nothing but academic and no useful purpose will be served by this discussion, and until Government bring forward any concrete proposals for raising money through any form of taxation, it will be improper, unwise and premature for this House to express any approval or disapproval of the Report. Unless we have definite proposals from the Government, any discussion will be no more than an academic one. There are many proposals in the Report which are ridiculous, such as the proposal to tax marriages and to leave bachelors free. At the same time I must admit that there are some proposals which are worth considering. At any rate, Sir, under the Statute this House has no responsibility for any constructive proposals of taxation, and as it rests entirely with the Executive Government, therefore let us wait for definite proposals from the Government. I have no mind to say anything about the merits or the demerits of the Report because it will take hours before we can do justice to the Report. Further, a debate or discussion on the Report would be absolutely barren as each Member would naturally support his own favourite theme with regard to taxation. So under the circumstances I recommend that my amendment be accepted by the House.

THE HONOURABLE THE PRESIDENT: Motion moved:

"That the discussion on the Report on the Indian Taxation Enquiry Committee be adjourned till the next Session of the Council."

That for the time being is the sole question before the House.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, the Resolution moved by my Honourable friend, Mr. Jukes, appears to me to be perfectly harmless in its simplicity. Moreover, it commits this Honourable Council to nothing. It merely asks that this Council should recommend to the Governor General in Council that he

[Sir Arthur Froom.]

be pleased to take into consideration the Report of the Indian Taxation Enquiry Committee. I feel quite confident that the Honourable Members of this Council would not wish to decry the labours, the very considerate labours, of the six gentlemen who formed that Committee by throwing out the Resolution brought forward by the Honourable the Finance Secretary. With these few remarks, Sir, I turn to the amendment ; and I must at once say that I do not understand it. It must of course, Sir, be technically correct because you have admitted it, but I cannot see its practical side at all. How does this amendment read ?

"That the discussion on the Report of the Indian Taxation Enquiry Committee be adjourned till the next Session of the Council."

Sir, we have not had a discussion. You cannot suggest that the Honourable Mr. Jukes has had a discussion all by himself : it takes two people to make a discussion. I could understand the Honourable Dr. Rama Rau introducing such an amendment, say, at the end of two hours when he might have been tired of the discussion. We have had no discussion at all ; and I think it is entirely irregular, not technically irregular under your jurisdiction, but entirely irregular from the point of view of the Members of this Council that he should have brought forward this amendment at this stage. Sir, I oppose it wholeheartedly.

THE HONOURABLE MR. P. C. DESIKA CHARI (Buim : General) : Sir, the reasons given by my friend, the Honourable Dr. Rama Rau, seem to my humble self very convincing. We are not a House which has got any right to initiate taxation. Honourable Members in this House have got in their hands a copy of the discussion in another place where, in the speech of Sir Sivaswamy Aiyer, the reasons for adjourning a discussion of this kind have been elaborately given. I do not propose to add much to the reasons which have already been given in that considered statement of Sir Sivaswamy Aiyer which ought to have been perused by every Honourable Member of this House ; but I would suggest in the interests of the House that a discussion of this kind is not likely to bear any tangible result. I would at the outset point out, however, that the fact that we want to have the discussion postponed does not indicate any intention on our part to decry the labours of the Taxation Enquiry Committee. I find that through the labours of that laborious Committee a good deal of theoretical information has been collected, and, though there is not much of assimilation of the materials which have been brought together, I find that we can at any time take out a good deal of valuable matter from the reports to discuss the pros and cons of any reduction or increase of taxation. That is enough to dispose of the preliminary remarks made by my Honourable friend, Sir Arthur Froom, that any adjournment of the discussion would indicate our intention to decry the labours of this Committee. In the second place, my Honourable friend, Sir Arthur Froom, said that he did not understand the amendment and that it was irregular. I do not know what he meant when he said that this amendment was irregular. Rather than having a discussion to some extent and then bringing forward an amendment of this kind, to have the matter postponed, it is better that we understand where we are by having the matter threshed out whether it is desirable to continue the discussion or to

have the matter postponed. It is better to have the views of the House at the outset ; and my principal objection to having a discussion of the kind which is now proposed is that the discussion would not lead to any tangible results, as I said at the outset ; and I am much obliged to the Honourable the Finance Secretary that he made a reference in the course of his speech to the points that the task of Government will be greatly simplified and that no country shall govern itself unless it is ready to tax itself. I would like to have this theory reversed somewhat : I would like to have the principle embodied in this statement to be put in such a form as to show that no country shall be obliged to tax itself unless it is enabled to govern itself. That will be a proper statement and I do not wonder at the way in which my friend, who is charged with the duty of finding means to carry on the administration where responsibility is not shared by the representatives of the people, made that statement by putting the cart before the horse.

THE HONOURABLE MR. J. E. C. JUKES : I should like to make a personal explanation, Sir. My remark as regards taxation was not made with reference to a country but with reference to a community, and primarily with reference to the bodies which are engaged in what is called local self-government in India.

THE HONOURABLE MR. P. C. DESIKA CHARI : I am obliged for the correction ; but all the same, the principles contained in that statement apply with added force to the conditions which I have mentioned. I would remind the Members of the House of the welcome of the spider to the fly. "Pray, walk into my parlour" said the spider to the fly. The solicitude shown by the Finance Department to enter into a free and unrestricted discussion as regards the willingness of the representatives of the people to share the responsibility of burden without the Government being obliged to take the representatives into confidence.....

THE HONOURABLE THE PRESIDENT : I would ask the Honourable Member to come back to the motion before the House and to follow the excellent example set by the Mover of the motion and the Honourable Member who followed him.

THE HONOURABLE MR. P. C. DESIKA CHARI : It is not necessary for the present purpose to dilate at any great length on the motion for adjournment. I would suggest to Honourable Members that the proper time for discussions of this kind will be when tangible propositions are brought forward for discussion and this is not the proper time for discussion when tangible proposals are not forthcoming from the Finance Department.

THE HONOURABLE SIR C. SANKARAN NAIR (Madras : Non-Muhammadan) : Sir, I rise to oppose this motion for adjournment ; one strong reason for opposing it is found in the words in the motion which you have directed to be deleted. My friend states here that "no discussion of any constructive nature could be carried on without definite Government proposals." The fact is just the other way. When the Government make any proposal for taxation, you cannot make any constructive proposals, but you can make destructive criticism, and, as my friend said, there is no statutory obligation on the part of this Council to put forward any constructive proposals. That is the very reason why Government now come forward and ask the Council for any constructive suggestions that we may make. The alteration in the motion makes

[Sir C. Sankaran Nair.]

it nonsense. Instead of adjourning it *sine die*, my friend says adjourn it to the next Session. All these arguments against any discussion to-day would apply to the next Session. If you cannot make any criticism now of the proposals, if you have to wait for the Government to make the proposals, then how are you in a position at the next Session to go on with a discussion of this matter without waiting for Government proposals ?

Let me now come to the main question itself. My friend states as a reason for moving the adjournment that this is not the time for us to criticise or to make suggestions with reference to the proposals for taxation which have been made in the Report itself or which may be made by the Government. Now, it may be my friend's policy, but that is not my view. If I have to object to any proposal made by anybody which affects me, the moment the proposal comes, I would say "I object to it". The result would then be that, if we state our objections to the proposals for taxation now, they will be noted. You will see Sir, that the proposals, at page 503 of the Report, are very important. It is our duty to our constituents to come forward and say what we have to say with reference to those proposals. The result would then be that it will be for the Government to consider whether there is anything in those objections. If there is anything in those objections, they will think twice before putting forward proposals for taxation. What has been the experience of the Government of India all through ? Take the Rowlatt Bill, the Bengal Partition Bill, the Ilbert Bill. What was the course of events ? The Government did not know the strength of opposition and, on account of want of information, they put forward those proposals and afterwards they dared not, for other reasons, withdraw them ; the result was they had to go on. Do the Honourable Members want to place Government in that position ? Take, Sir, the proposals here which affect the landed interests vitally ? If no objections are brought forward now and if the Government are led to believe the proposals are unobjectionable, and they put forward their proposals, the result might be—I do not say would be—unfortunate. I say, therefore, it is the duty of the representatives of the interests affected to come forward at the earliest possible moment, and at every opportunity, and say what they have to say and raise the objections which they have to raise. It is then for the Government to make up their minds and then say "We have heard the objections ; in spite of that we propose to go on." They would then know what they have to expect. They would know then the strength of the opposition or the degree of opposition and the consequences that would result. So far then as to the proposals which might be brought forward. I do not want to be sarcastic, but I doubt whether those who propose the adjournment have read the Report, because in the Report there are proposals, various recommendations, for exempting various interests. They are embodied, if anybody likes to read them, in paragraphs 233 to 239. Look at those exemptions ; they are very important. There are many important interests which have been exempted. I do not agree with some of them. Will they be embodied in any proposal of the Government ? They cannot be. Such proposals would not come up for discussion before the Council, and here we are afforded an opportunity of discussing them : we are afforded the opportunity of telling Government that the Taxation Enquiry Committee are wrong in exempting certain interests. On the other hand, they should turn their

attention to these sources of revenue and give relief to person who want relief. There are many proposals here with reference to the relief to be granted to various classes of people. The Government Taxation Enquiry Committee said that no relief need be granted in various cases. There are many instances in which I do not agree with them. For instance, they say that no relief need be granted in the case of taxation on salt. Their recommendation is opposed to Resolutions after Resolutions of the various Assemblies. Now, the Government are not likely to bring forward any proposals about them. They will simply accept the Report of the Taxation Committee. Are we not to discuss that Report when we are given an opportunity by Government for that discussion?

Then, again, take the order of precedence of the various taxation proposals. That, too, would not arise on any proposals made by Government because they will simply take up one subject which appears to the Government to be the proper subject for taxation. All the recommendations contained in paragraph 361, therefore, will not come up for discussion if we wait for Government proposals. It will thus be observed that no opportunity will be afforded to the Council, if they are to wait for proposals from the Government, in order to discuss these questions. But if you do not discuss them what would be the result? Now, the Report is signed by the representatives of the land-owning classes like the Maharaja of Burdwan and experienced officials like Sir Charles Todhunter and others. This report, therefore, is bound to exercise great influence? Our criticism of the Report must therefore be before the country. We want, therefore, that the Report should be discussed in this Council. We do not want to accept these things as gospel truths because there are matters to which serious objection may be taken. We do not want the Government to accept it entirely as a gospel truth before hearing what we have to say. I strongly object, therefore, to the motion for adjournment.

THE HONOURABLE SIR MANECKJI BYRAMJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I understand that you have ruled out of order all the words after the "next Session of the Council".

THE HONOURABLE THE PRESIDENT : If the Honourable Member had listened he would have known that those words were not moved.

THE HONOURABLE SIR MANECKJI BYRAMJI DADABHOY : Thank you, Sir. When I first came to this Council to-day, I had a determination to oppose this motion. My determination was based on the fact that the proposal originally put forward was of a nature which I could not possibly support. So far as Dr. Rama Rau's arguments are concerned in connection with the request asking Government to put forward constructive proposals, I quite agree with the views of Sir Sankaran Nair but not for the reasons that he has stated. My reasons for coming to that conclusion are entirely different. I sincerely recommend to the Government not to bring forward any definite proposals before this House in future for the simple reason that they will be misconstrued in the country and they will cause dislocation of the monetary markets both in Calcutta and Bombay. If Government bring forward any definite proposals before this Council for fresh taxation—though they may be brought forward for the purpose of pure academic discussion for finding out the wishes of the people

[Sir Maneckji Dadabhoy.]

—they might be misconstrued in the country as some sort of intention on the part of Government to levy such taxes and might cause a dislocation of financial equilibrium, would act as an incentive to people in Bombay and Calcutta to speculate and gamble and might also inflict a considerable amount of injury and damage to the trade generally and to the central revenues. Sir, the modified Resolution, as it stands, only asks for the adjournment of this discussion till the next Session. Many of my friends here told me this morning that they were not prepared at this short notice to express definite views on the subject. Some of the proposals require very serious consideration and are of a very far-reaching character. Many of my friends had no time to study this elaborate Report carefully and formulate their proposals. Many also are of opinion that they should discuss the question with their friends and their constituents before they express definite opinions. This seems to me to be a very reasonable request. The Honourable Mr. Jukes has told us this morning that it is not the intention of the Government of India to bring in any additional central taxation. On the other hand, he has indicated and our esteemed Finance Minister also has very rightly pointed out in the other House that the Government tendency would rather be towards reduction than an increase in taxation. I am sorry to state that I have not been able to follow the arguments of some of my Honourable friends. If my colleagues only want the adjournment of the discussion of this very important subject till the Next session and not *sine die*, I do not see any valid objection to such a reasonable request. I, therefore, support that request.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab: Nominated Non-Official) : Sir, though my Honourable friend Dr. Rama Rau and I do not hold the same views and do not see eye to eye, to-day I am absolutely at one with him in his contention that this debate be adjourned. Government have very kindly done so in the other House having regard to the various arguments that were advanced there. What is sauce for the goose is sauce for the gander. If the Government do not accede to our request here, we will be led to believe that the preponderance of voters in the Assembly was a factor which made the Government decide that the further discussion be postponed. But we should not be considered as a helpless House, and a thing which has not been brought forward in another place should not be brought forward here also. There are various other things to be taken note of. My class, which is 80 per cent. of the population, is more or less backward. The Report of the Taxation Enquiry Committee, which is in English, has not been translated and has not been sufficiently commented upon by the newspapers. That class will be the last class to learn what this Report means and then formulate their opinions. It is for this reason that the bulk of the population would be very thankful if this debate were postponed. I had always been thinking why our Doctor is called a Doctor. (Laughter.) But to-day I have come to know that he has acted according to his medical science that since this is an ill-conceived and diseased report, if we cannot save it, it will be much better if we can prolong it as long as possible; his science is used for the right purpose and we ought to be thankful. We people who are going to suffer from it, being the patients, naturally like the Doctor's proposal. Sir, it is just like the case of a man who had a fall and everybody was suggesting remedies. One

man said : " Give him ghee and gur and other good things of that sort to eat." The man at once spoke and said : " Do not mind other medicines, but listen to what this man says." He wanted those nice things to eat and become strong. So, we all now see that we do believe in the prescription brought forward by our Doctor. Another consideration, which is more or less selfish, that I have in mind when I support this motion is to save myself from the strain of self-restraint. When speaking about the Report and its authors I may be forced to use language which some people may term unparliamentary. I do hope, Sir, that those who eat the wheat produced by the poor zemindars in this country would to-day be *namak Halals* and help this debate to be postponed and thus save the situation by preventing the officials from taking part in it.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : Sir, the Resolution moved by the Honourable Mr. Jukes is :

" That this Council recommends to the Governor General in Council that he be pleased to take into consideration the Report of the Indian Taxation Enquiry Committee."

I have tried to find out the real object of moving this motion in this House but I have failed to do so. If it means that this House endorses the recommendations made in this Report, that cannot be done unless sufficient opportunity is granted to the Honourable Members of this House to go through the Report fully and with full confidence they come to the House to discuss the recommendations made in the Report. If it is simply a formal Resolution recommending His Excellency the Governor General in Council to take it into consideration, I think it does not need any recommendation from this House at all to invite His Excellency the Governor General in Council to consider the Report. First of all, this Committee was appointed not by the express wish or Resolution of any Chamber of the Central Legislature. It was appointed by a Resolution of the Finance Department, No. 1412-F., dated the 26th May, 1924. After this Resolution about the appointment of the Committee, the members set to work and undoubtedly they have done this work with great labour, and it has cost the Government something like Rs. 4,50,000. Having taken the time of the members for more than a year to compile this volume and having spent about five lakhs on it, His Excellency the Governor General in Council is sure to consider this Report. Apart from that I think we have all heard the learned address of His Excellency the Governor General which he delivered on the 17th August. It runs thus :

" The Report of the Taxation Enquiry Committee is under the careful consideration of Government, and matters are in train for that consultation with the Local Governments which is essential before action can be taken on the Committee's recommendations."

This clearly indicates that the Report of the Taxation Enquiry Committee is already under the consideration of the Government. Not only is it under the consideration of His Excellency the Governor General in Council but matters are in train for consultation with Local Governments in connection with this Report. Of course His Excellency was gracious enough to say in the next sentence :

" In the meantime, in order both to fulfil the promise made to the Legislature and to assist Government in formulating their conclusions, resolutions will be moved this Session in both Chambers in such terms as to give Honourable Members an opportunity of expressing their views on any portion of the Report in which they may be interested."

[Sardar Shivdev Singh Oberoi.]

This is really very kind of him, but the question is whether this short space of time which has been at the disposal of Honourable Members of this House since notice of this motion has been on the agenda is sufficient to enable them to deliberate on this subject and to make their criticisms fully.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : We have had the Report since March.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : That is quite right, but we had not this Resolution on the paper that we would be called upon to recommend to the Governor General in Council that he should take this Report into consideration.

THE HONOURABLE SIR ARTHUR FROOM : You must always be prepared for a Resolution.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : The Members of the Committee have taken more than a year to compile these two volumes of big size. Are we expected to have studied it and to criticise it fully within the space of 10 or 15 days since this motion has been on the agenda ? I agree with the Honourable Sir Sankaran Nair that we must take the opportunity of criticising this Report, offering our condemnation where we find that it deserves condemnation and offering our appreciation where we find that there is a proposal for reduction of taxation ; but the point is that, in my opinion, sufficient time has not been given to the Honourable Members to go through the Report. At least I for one am prepared to confess before this House that I have not been able to go through it with as much care and caution and as completely as I would have desired in this short time at my disposal. So I agree with the amendment that time should be given for its consideration till the next Council. Of course I know that on the floor of the other House the consideration has been postponed *sine die*. I do not agree with that at all because I think that we must consider and discuss it. But my point is this, that the time at our disposal has not been sufficient enough for us to go through it.

THE HONOURABLE THE PRESIDENT : I must ask the Honourable Member not to repeat that argument again. I think he has mentioned six times that he has not had time to go through the Report.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI : Well, Sir, I support the amendment that the consideration of this Report be adjourned till the next Session.

THE HONOURABLE MR. J. W. A. BELL (Bengal Chamber of Commerce) : Sir, I must express considerable astonishment at the amendment proposed by my Honourable friend Dr. Rama Rau. I am also very much surprised at the amount of support which it has received from the House. I think my Honourable friend Mr. Jukes put the Government position in a perfectly simple way. He said that Government desired before taking any action on the Report or taking it into consideration to have some idea of the views of the Honourable Members of this House on the different proposals raised in it. I think that is quite reasonable. I think that it is a perfectly reasonable attitude on the part of Government that they should desire to hear

what the Honourable Members of this House think of the Report before taking any action. I think that rather emphasises the argument used by my Honourable friend Sir Sankaran Nair.

I am also rather surprised to hear arguments in favour of the amendment emanating from my Honourable friends Sir Maneckji Dadabhoy and Mr. Chari. My Honourable friend Sir Maneckji Dadabhoy said that he had not had time to consider the Report.

THE HONOURABLE SIR MANECKJI BYRAMJI DADABHOY: I beg your pardon. I have considered the Report very well.

THE HONOURABLE MR. J. W. A. BELL: I am glad to hear it. I now understand that my Honourable friend's anxiety was lest other Honourable Members of this House should not have had time to read the Report.

Well, the Honourable Members of this House have had the Report in their hands for about six months,—I think it was published last March,—and if I know anything about a number of them, they have had ample time to get the whole thing alomst off by heart in that time. (Laughter.)

My Honourable friend, Mr. Desika Chari, used rather a peculiar argument. He said that this discussion was not likely to have any tangible results. How does he know that? How does he know that what Honourable Members of this House are going to say to my Honourable friend, the Finance Member, about the proposals in this Report is not going to have tangible results? I hope it will have tangible results; and, in any case, my Honourable friend is not in a position to use that argument because he does not know whether it will or will not.

As I said before, I think the attitude of Government is an entirely reasonable one; and I think that if we accept the amendment proposed by my Honourable friend, Dr. Rama Rau, we will not merely be failing to take advantage of a favourable opportunity of expressing our views, but the House will be almost guilty of courtesy towards Government in refusing to take advantage of this opportunity which Government have been good enough to give the House to discuss the Report.

THE HONOURABLE MR. J. E. C. JUKES (Finance Secretary): Sir, I should like to make plain what is the position of Government in relation to this amendment. The position of Government is perfectly simple. They are, as I have already said, most anxious to secure from Honourable Members of this House constructive suggestions which will help them in handling the Report. It appears from what has been said that there are Honourable Members of this House who are very anxious to give Government such constructive suggestions. It also appears that a large number of other Honourable Members are not prepared to make any such suggestions. May I be excused, Sir, if I suggest that the attitude of the latter class of Members strikes me as a little selfish? "We do not wish to make any suggestions: therefore we will not allow anybody else to do so." Surely it would be possible for them, if that is their attitude, to allow the debates to go on and either to sit silent in their places, or, if they do not even take sufficient interest in the subject to do that, to leave the House altogether. But in any case, Sir, Government are prepared to leave it to the decision of the House whether the Resolution should be adjourned or

[Mr. J. E. C. Jukes.]

should not be adjourned. I want however to make one thing quite plain, and that is that, if the motion is adjourned, Government will not be prepared, any more than they were in another place, to give another day in a later Session for a full discussion of the complete Report. The Report has been published now for six months, and notice that this Resolution would be moved has been given for a month ; and I think Government are justified in considering that, if Honourable Members desired to do so, they should be in a position to discuss the various suggestions of the Report. If, therefore, this Resolution is adjourned, Government will not give another day for the discussion of the whole subject. Government are, however, prepared to give the promise which they made in another place, that, if there be evidence that there is a considerable body of Honourable Members which desires to move and support a Resolution on any particular subject covered by the Report, they will be prepared to allow such a discussion.

THE HONOURABLE MR. MANMOHANDAS RAMJI (Bombay : Non-Muhammadan) : Sir, I do not understand the object of the mover of the amendment. In the first place the amendment as tabled in his name was to postpone the consideration of the Report *sine die*. Then he comes and alters his amendment in a way suggesting that the House is willing to consider this question at a later date, and he has adduced no reasons why he proposes to make this alteration in his amendment. In the circumstances, it is quite clear that there is something behind the screen, otherwise this change would not have been brought about. Now, Sir, I fully endorse the views of my friend, the Honourable Member from Madras, who has advanced cogent arguments as to why we should now proceed to consider this Report. This Report is a really important document, and if we lose the opportunity of discussing it now, we will be charged at some future date that we did not avail ourselves of the opportunity that was offered and we may be blamed. There are important questions raised in this Taxation Enquiry Report. Take, for instance, the income-tax. There is a proposal to raise the income-tax revenue by nearly a crore of rupees. Now, may I know from the Honourable Members present here whether they are prepared to sanction this crore of rupees if Government bring in such a proposal ? It is much better that at this stage we ought to express our opinions on certain suggestions and proposals so that the Government may take our views into consideration and then bring up specific proposals of their own, so that it will be easier for us to turn down any proposal of Government which is not useful or advantageous to certain interests. Then, again, Sir, if we throw away this opportunity to-day, we may later on be accused that we are not capable of making suggestions and that therefore we ask Government to bring up concrete proposals before us. I think we ought to take this opportunity and discuss this Report fully, go into it very carefully, and ventilate our views according to our own lights and responsibilities. Sir, I oppose the amendment.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, on coming to the Council this morning I gave notice of an amendment which I believe is before you. May I know whether it will be in order for me to move that amendment at this stage so that the two amendments may be

before the House and Honourable Members may be in a position to give their votes in favour of one rather than the other. I may only explain that the real point of my amendment wherein it substantially differs from that of my Honourable friend's amendment as it stands now—not as it stood at 11 o'clock this morning—is that whereas he proposes that we should have the adjournment till the next Session of the Council, I desire that the Government should come forward with something like definite proposals at as early a date as may be convenient in order to indicate what are the directions in which they desire to take action on the Report of the Indian Taxation Enquiry Committee.

THE HONOURABLE THE PRESIDENT : I think it would be very difficult for the House to combine the discussion on the amendment to which the Honourable Saiyid Raza Ali has referred and which he handed to me this morning, with the discussion of the amendment which has been moved by the Honourable Dr. Rama Rau. Apart from that, it appears to me that the debate on the Honourable Dr. Rama Rau's amendment is at an end, and I therefore, if no Honourable Member wishes to speak, propose to put the question to the House.

The original question was that the following Resolution be adopted :

"This Council recommends to the Governor General in Council that he be pleased to take into consideration the Report of the Indian Taxation Enquiry Committee."

Since which a motion has been moved :

"That the discussion on the Report of the Indian Taxation Enquiry Committee be adjourned till the next Session of the Council."

The question I have to put is :

"That the discussion on the Report of the Indian Taxation Enquiry Committee be adjourned till the next Session of the Council."

The Council divided :

AYES—24.

Abdul Karim, Khan Bahadur Maulvi.
Charanjit Singh, Sardar.
Dadabhai, Sir Maneckji Byramji.
Desika Chari, Mr. P. C.
Mahendra Prasad, Mr.
Mehr Shah, Nawab Sahibzada Sayad Mohammad.
Morarji, Mr. R. D.
Muhammad Hussain, Mian Ali Baksh.
Mukherji, Srijut Lokenath.
Nawab Ali Khan, Raja.
Oberoi, Sardar Shivdev Singh.
Ram Saran Das, Rai Bahadur Lala.

Rama Rau, Rao Sahib Dr. U.
Ramadas Pantulu, Mr. V.
Raza Ali, Saiyid.
Roy Choudhuri, Mr. K. S.
Sett, Rai Bahadur Nalininath.
Singh, Maharajadhiraja Sir Rameshwara, of Darbhanga.
Singh, Raja Sir Harnam.
Singh, Raja Sir Rampal.
Sinha, Mr. Anugraha Narayan.
Umar Hayat Khan, Colonel Nawab Sir.
Wacha, Sir Dinshaw Edulji.
Zubair, Shah Muhammad.

NOES—9.

Bell, Mr. J. W. A.
Emerson, Mr. T.
Froo : Sir Arthur.
Gray, Mr. W. A.

Langley, Mr. A.
Manmohandas Ramji, Mr.
Sankaran Nair, Sir Chettur.
Smyth, Mr. J. W.
Suhrawardy, Mr. M.

THE HONOURABLE THE PRESIDENT : The motion is therefore carried and the discussion is adjourned.

STATEMENT OF BUSINESS.

THE HONOURABLE Sir MUHAMMAD HABIBULLAH (Education, Health and Lands Member): Sir, on Saturday, the 28th, motions will be made for the consideration and passing of the Bills which were laid on the table yesterday, and it is hoped that all the Bills outstanding in another place which Government desire to pass into law this Session will be laid on the table on that day. Should this expectation be realised, the Bills in question would be proceeded with on Tuesday, the 31st instant. This, Sir, so far as can be foreseen at present, will conclude the business of the Session.

The Council then adjourned till Eleven of the Clock on Saturday, the 28th August, 1926.

COUNCIL OF STATE.

Saturday, the 28th August, 1926.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill further to amend the Provincial Insolvency Act, 1920, for certain purposes, a Bill to amend the Indian Succession Act, 1925, for a certain purpose, a Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, and a Bill to provide for the constitution of Bar Councils in British India and for other purposes, which Bills were passed by the Legislative Assembly at its meetings held on the 25th, 26th and 27th August, 1926.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, a Message has been received from the Legislative Assembly. The Message runs as follows :

"I am directed to inform you that the Bill to amend the provisions of section 33 of the Indian Succession Act, 1925, which was passed by the Council of State at its meeting held on the 23rd March, 1926, was passed by the Legislative Assembly at its meeting on the 27th August 1926, with the amendments indicated below.

The Legislative Assembly requests the concurrence of the Council of State in the amendments."

The amendments made by the Legislative Assembly in the Bill are as follows :

In clause 3, in the proposed section 33-A—

- (i) in sub-section (3) for the words "in the same way as if such residue had been" the words "and such residue shall be distributed in accordance with the provisions of section 33 as if it were" were substituted ; and
- (ii) in sub-section (5) for the words "any Indian Christian or of" the following was substituted, namely :
 - (i) any Indian Christian,
 - (ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or
 - (iii)."

Sir, I lay on the table a copy of the Bill as amended by the Legislative Assembly.

USURIOUS LOANS (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the Bill to amend the Usurious Loans Act, 1918, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

This Bill, as Honourable Members will observe, seeks to extend the operation of the Usurious Loans Act in two principal directions. The first is to enable debtors to file suits under the provisions of the Act in the same way as is open to creditors. The present framing of the Act permits the initiative in litigation to be taken only by a creditor. The second and almost equally important amendment which is proposed is to extend the period of limitation in proviso (i) of section 3 of the Act from six years to twelve years. These two amendments have been under the consideration of the Government of India for some time. In fact, I recollect that I had the privilege of addressing the Government of India on this subject from Bombay in the year 1921. The Government of Bombay were particularly concerned in this matter, because the legislation which is now proposed will affect their position very materially in respect of the operation of the Dekkhan Agriculturists' Relief Act. That Act is an antiquated and somewhat cumbersome measure, and great difficulty has been experienced in its working. The Government of Bombay have for a long time been anxious to simplify the legislation relating to agrarian debts particularly and to usurious transactions generally by a very extensive repeal of the Dekkhan Agriculturists' Relief Act. They were, however, unable to do so until some of the necessary safeguards, which will be provided by the Usurious Loans Act as now proposed to be amended, had been carried into effect. The Government of India took these questions into consideration three or four years ago and circulated them for opinion to the Local Governments. There was a very strong measure of support to the first proposition, which is to enable debtors to avail themselves of the privileges of the Act, and, as regards the extension of the period of limitation, though there was not the same degree of unanimity nevertheless there was a substantial degree of support. The two amendments which this Bill purports to effect will, as a matter of fact, only bring the Usurious Loans Act into closer accord with the English Moneylenders' Act on which it is based in both these respects. The English Moneylenders' Act enables a debtor to initiate litigation under the conditions of that Act, and, so far as the question of limitation is concerned, the English Moneylenders' Act contains no period of limitation whatever. The Government of India were not disposed to move for the amendment of an Act so recently passed when the matter then came before them owing to the fact that the Usurious Loans Act as originally enacted was still a somewhat unfamiliar measure and sufficient experience of its working in its original form had not, in the opinion of the Government of India, at that time been obtained. Opinions, however, are now so strongly in favour of these amendments, particularly the opinion of the Government of Bombay which is far more closely affected than any other Local Government, that the Government of India have decided that it is now an opportune time to ask the Legislature to enact these amendments. Sir, I move.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

WORKMEN'S COMPENSATION (AMENDMENT) BILL.

THE HONOURABLE MR. A. H. LEY (Industries and Labour Secretary) : Sir, I move that the Bill further to amend the Workmen's Compensation Act, 1923, as passed by the Legislative Assembly, be taken into consideration.

This is a very small Bill merely designed to give effect to the Resolution passed in this Council at their last session recommending that the Governor General in Council should ratify the Draft Convention passed at the seventh session of the International Labour Conference held at Geneva last year regarding occupational diseases. It extends slightly, and defines more precisely, the circumstances in which compensation can be claimed under the Workmen's Compensation Act by a workman who contracts the disease of anthrax.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. H. LEY : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

NEGOTIABLE INSTRUMENTS (INTEREST) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move that the Bill further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

This is a Bill which is intended to give effect to another of the recommendations of the Civil Justice Committee. Chapter XXXVII of the First Schedule to the Code of Civil Procedure deals with summary suits on negotiable instruments and it provides that in summary suits on negotiable instruments, if leave is not granted to the defendant to defend, the plaintiff is entitled to the amount claimed together with interest at such rate, if any, as may be specified in the instrument itself. It does not provide at what rate interest is to be given if the rate is not specified in the instrument. On the other hand, section 80 of the Negotiable Instruments Act provides that where the rate of interest is not specified in the instrument itself 6 per cent. is to be allowed except in cases provided for under Chapter XXXVII. Chapter XXXVII, as I have told you, does not provide what rate of interest is to be given when the rate is not specified in the instrument itself. The result has been that some of

[Mr. S. R. Das.]

the High Courts have allowed evidence to be given as to any oral agreement between the parties with regard to the rate of interest where the rate of interest is not specified in the instrument itself. The object of this Bill is to amend the Civil Procedure Code, Chapter XXXVII, as also the Negotiable Instruments Act, so as to enable the plaintiff to get interest at 6 per cent. only in such cases where the rate of interest is not specified in the instrument itself and with a view also to avoid evidence as to any oral agreement. That is the main object of this Bill. There are certain other minor amendments to which I do not think I need draw the attention of this House. Sir, I move.

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 31st August, 1926.

COUNCIL OF STATE.

Tuesday, the 31st August, 1926.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

MEMBER SWORN :

The Honourable Mr. James Alexander Richey (Educational Commissioner with the Government of India).

QUESTIONS AND ANSWERS.

CANTEEN SERVICE FOR BRITISH TROOPS.

87. THE HONOURABLE SIR EBRAHIM HAROON JAFFER : Will the Government be pleased to say whether the Indian firms and traders serving the British troops in the Indian Army are ready to work in accordance with the desires of the Government and are willing to take over the stock of saleable goods of the Army Canteen Board at market rates if the Government decide to abolish that organisation ?

His EXCELLENCY THE COMMANDER-IN-CHIEF : I presume the Honourable Member is referring to the "Contractors". If so, the answer to his question is that certain proposals for the taking over of the business of the Army Canteen Board, India, were made by a deputation of the All-India Contractors' Association that waited on me recently.

CANTEEN SERVICE FOR BRITISH TROOPS.

88. THE HONOURABLE SIR EBRAHIM HAROON JAFFER : Is it a fact that a representative deputation of the All-India Army Contractors' Association, which waited on His Excellency the Commander-in-Chief on the 12th August, gave an undertaking that should Government decide to abolish the tenancy system and hand over the Institutes to a centralised board, their Association is prepared to constitute itself into a limited company with sufficient capital and take over the Institutes on such terms, conditions and guarantees as Government may decide on ?

His EXCELLENCY THE COMMANDER-IN-CHIEF : The answer is in the affirmative.

CANTEEN SERVICE FOR BRITISH TROOPS.

89. THE HONOURABLE SIR EBRAHIM HAROON JAFFER : Is it a fact that the All-India Army Contractors' Association's Deputation submitted a memorandum and certain points for the consideration of Government in which they offer certain advantages for the benefit of British troops in India ?

His EXCELLENCY THE COMMANDER-IN-CHIEF : Yes, Sir.

Professor Burnett Hurst estimates that the cost of the Provincial Bureaux, where no labour offices at present exist, would be about one lakh of rupees per annum for each Province, but he attempts no estimate of cost of the intensive and extensive enquiries recommended, which he would leave on an elastic basis depending on the extent of the enquiries which each local Government or which the Provincial Boards of Economic Enquiry decide to undertake.

7. The Government of India feel sure that local Governments will appreciate the underlying object of this Report which is to improve the standard and extend the scope of the statistical material available for an estimate of the economic condition and resources of the country and will share their desire to give effect to any practical proposals which will contribute to this object and which can be undertaken at a reasonable cost. But in view of the financial considerations involved and of the necessity for co-operation, between local Governments and the Central Government in any measures which may be approved, and in view also of the important administrative considerations implied in proposals such as those for the estimate of individual wealth by a staff of investigators and for legislation to make compulsory the supply of information to the Government Statistical Department, they desire in the first instance to invite the views of local Governments upon the proposals of the Committee, both in the Majority and the Minority Reports, before taking any further action and at the present stage they refrain from comment upon the details regarding which the local Governments will in most instances be in the best position to advise. They would be glad if the views of the local Government could be forwarded to the Government of India at their earliest convenience.

I have the honour to be,

SIR,

Your most obedient servant,

(Sd.) A. C. McWATTERS,

Secretary to the Government of India.

No. O. 4299-F.

Department of Commerce.

Department of I. and L.

Department of E., H. and L.

Home Department.

Foreign and Political Department.

C. B. R.

By order, etc.,

(Sd.) A. C. McWATTERS,

Secretary to the Government of India.

APPENDIX A.

General Statistics other than production.

1. Report of Joint Stock Companies. Should contain information regarding the Para. 26. dividends declared.
2. Statistical Abstract . . . Should contain statistics relating to Insurance Para. 26. Companies for purposes other than Life insurance.
3. Internal Trade Returns . . . Should be revived and brought into line with Para. 30. the more up-to-date statistics of countries like the U. S. A.
4. Sea-Borne Trade and Navigation accounts. Figures as to the crew employed, especially Para. 34. on ships plying in coastal waters should be published.
5. Other Transport . . . Suggests that in addition to figures for carts, Para. 35. which are taken along with the Cattle census, figures of motor and all other forms of transport, including boats should be collected and published.

6. Roads and Navigable canals .. Information regarding length of metalled and Para. 36. unmetalled roads and navigable canals, now maintained by Provincial authorities should be put together for the whole of India.

7. Posts and Telegraphs .. Figures relating to wireless messages and Para. 37. broadcasting stations might be published in Annual Reports of Posts and Telegraphs Department.

8. Education .. Information relating to libraries, museums, Para. 38. zoological and botanical gardens and learned societies might be collected and published in the Statistical Abstract.

APPENDIX B.

Statistics of Production.

1. General recommendation .. That complete statistics of production, including the total value of production, should be collected, if it is possible to do so at a reasonable cost. Para. 41.

The best method would be by improving and Para. 44. amplifying the existing agricultural statistics, and where a subordinate revenue agency exists, no other agency for compiling the information can be usefully substituted for it.

What is necessary is to improve the statistics Para. 45. of yield where necessary and to convert the quantities into values.

2. Condition of crops .. System of ascertaining condition of crops in Para. 48. force in Punjab is recommended and could be further improved.

3. Standard yield and crop experiments. .. The number of crop experiments, on which Para. 50. standard yield is based, should be considerably increased and should be extended to minor crops as well. It is for each provincial Government to decide what methods its officers should adopt for increasing the number of crop experiments performed from year to year.

4. Fruit and vegetables .. Valuation of fruit and vegetables should be Para. 51. included.

5. Valuation of produce .. System outlined for making calculation of Para. 52. value, village by village.

If above system is employed a periodical census Para. 53. of agricultural production is unnecessary, but a review of agricultural production might be made quinquennially on the basis of the annual returns.

6. Review of agricultural production. .. The collection of figures of agricultural produc- Para. 54. tion presents special difficulties in permanently settled areas (i.e., Bengal, Bihar and Orissa, also 1/3 of Madras and parts of the United Provinces and Assam). No definite suggestion is made, but steps which are already being taken by some Governments should be persisted in until the statistics of agricultural production are placed on a par with those of ryotwari Provinces as regards reliability of the outturn and values of the crops raised.

7. Tracts under permanent settlement. ..

8. Cattle census and pastoral products. Should if possible be held annually everywhere, Para. 56. as in Burma and the Central Provinces, and should include figures for various animals specified and for production, quantity and value of different pastoral products.

9. Forests .. The methods employed in other provinces for recording forests produce should be applied in Burma. Figures regarding production from private forests should be obtained, so far as possible, through the Revenue Department and published.

10. Fisheries .. Existing statistics are incomplete. Should Para. 57. aim at ascertaining amount and value of total catch in both inland and sea fisheries, and in respect of special fisheries such as chank, pearl and oyster fisheries.

11. Minerals .. Organisation suggested, in addition to the Fisheries Department where one exists, and collection of data in regard to big cities, is the revenue agency supplemented by the inspectors who may be appointed for ascertaining the production of cottage industries and other forms of miscellaneous production.

11. Minerals .. The information at present collected through Para. 58. the Chief Inspector of Mines should be supplemented for all mines which are not dealt with by the Department of Mines including indigenous mining, the statistics being collected by the Revenue Department under instructions from the Chief Inspector of Mines. The information required should be quantity and value of minerals produced, the number of persons employed and value of other material used up, including fuel consumed or power employed.

12. Large-scale industries .. In respect of all large-scale industries statistics should be collected through the Department of Industries and published annually in respect of:—

- (a) Quantity and value of manufactured goods,
- (b) Quantity and value of raw material used up in production,
- (c) Added value of manufactures,
- (d) Value of fuel or power used,
- (e) Number of employees.

A regular census of production of large industries should be taken quinquennially. Legislation will be necessary for the census of production for large-scale industries.

13. Cottage industries .. An estimate of the quantity and value of the Para. 60. total annual production of cottage industries should be ascertained with the estimated value of raw material used up, also number of persons employed wholly or partially in such industries number and kind of machinery, etc.

APPENDIX C.

Statistics of Income and Wealth, etc.

1. Income tax returns .. In the income tax returns greater details of Para. 62. the sources of income, i.e., of the business, profession or occupation from which it is derived, may be given.

2. Investigations as to income General investigations as to income should be Paras. 62 & 63 carried out every year for small typical areas, in both urban and rural tracts, so as to enable eventually estimates of income of classes and administrative units and distribution of income between production and services and between property and services to be worked out.

3. Investigation of wealth .. Estimates of local collective wealth should be Para. 64. prepared from outset by the "inventory method" for villages, towns and cities by evaluating area of land, number of houses and cattle, rough estimate of *furniture and implements, etc.* Estimates of public wealth should be included.
Whenever possible intensive house to house enquiries should be made by investigators.

4. Cost of living .. The existing information on the subject should Para. 65. be supplemented by the preparation of cost of living index numbers for working classes in the principal industrial centres and index numbers based on family budgets of typical families of other classes.

5. Indebtedness .. Intensive studies should be made and results Para. 66. published regarding extent of indebtedness of various classes and tracts, causes of indebtedness, rates of interest and sources of loans.

6. Wage census .. Suggests a quinquennial wage census and Para. 67. annual wage returns.
See Appendix 7 and Chapters VII, VIII and Para. 69. IX.

7. Prices .. The collection of prices should be placed on a comprehensive basis.
Wholesale prices should be collected fortnightly in respect of all agricultural products in each district at the principal market towns.
Retail prices should be collected weekly from the principal towns in each province and published as at present.
There should be honorary correspondents for reporting both kinds of prices.
Both wholesale and retail prices should be published collectively for the year, both provincially and centrally.

THE HONOURABLE SIR PHIROZE SETHNA : The Report of the Auxiliary and Territorial Forces Committee was published nearly two years back. May the Council know the date when the Government of India have sent their despatch on it to the Secretary of State ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Without previous notice I am afraid it is impossible to give a reply on that. I can only refer the Honourable Member to a speech of mine in the Legislative Assembly at Delhi last spring in which I informed the Assembly that the whole Report required very great consideration. We had to refer it to every Local Government in turn and after we received it back we again had to refer it to them. It is a matter which requires very great consideration. I am afraid I cannot remember exactly the date on which it was despatched to the Secretary of State.

DISTURBANCES BETWEEN HINDUS AND MUHAMMADANS SINCE JANUARY LAST.

93. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to lay on the table a statement stating :

- (a) the names of cities, towns or villages in which disturbances between Hindus and Muhammadans took place since January last ;
- (b) casualties in each case ;
- (c) cause or causes of the disturbance in each case ;
- (d) measures adopted in each case to put down the disturbances ;
- (e) cases in which firing was ordered ; and
- (f) measures that have been adopted to prevent such disturbances in future ?

THE HONOURABLE MR. J. CRERAR : (a), (b), (c) and (e). A statement is laid on the table which gives the information required so far as it has been reported to the Government of India.

(d) As the Honourable Member is doubtless aware, the police were assisted by the military during the disturbances that occurred in Calcutta in April last, and in Delhi and Kharagpur on the occasion of the Bakr-Id festival. I have no exact information regarding the measures adopted elsewhere.

(f) On such occasions executive action must be left to the authority in immediate charge of the area in which trouble has arisen or is likely to arise and its character must vary with the circumstances of the place and the moment.

Date.	Place of occurrence.	Casualties.	Occasions on which firing was ordered.	Cause of disturbance.
1. February 1926.	Agra City, United Provinces.	1 person roughly handled by hooligans.	..	..
2. 7th February	Madhi in Pathardi Mahal, Ahmednagar District, Bombay.	6 persons slightly injured.	..	Dispute over a building called the temple of Kambhoba or Dargor of Harat Shah Ramzan in which both Hindus and Muhammadans have in past claimed and exercised rights.

Date.	Place of occurrence.	Casualties.	Occasions on which firing was ordered.	Cause of disturbance.
3. 11th February.	Barondi, Patnagarhi District, Bombay	1 killed, 21 injured	..	Alleged playing of music before mosques by Hindu procession on Maha Shivratri day.
4. 12-13th April	Rewari, Punjab	1 killed, several injured.	..	Cause alleged to be playing of music before mosque by Hindu marriage procession. A Muhammadan crowd also attempted to take a corpse in procession through main bazar.
5. 2nd to 15th April.	Calcutta	46 killed, 675 injured	Firing ordered	The playing of music before a mosque by a Hindu procession.
6. 14th-16th April.	Sassaram, Shahabad District, Bihar and Orissa.	2 killed, 18 injured.	..	The trouble originally arose out of an individual quarrel between a Hindu and a Muhammadan followed by an attack by Muhammadans on a gathering of Hindus and later the looting of shops.
7. 22nd April to 9th May.	Calcutta	67 killed, about 400 injured.	Firing ordered	The tense feeling resulting from the previous (item 5) rioting had not died down. The immediate cause of renewal of hostilities was a brawl between some Hindus and Muhammadans.
8. 17th to 26th May.	Kharagpur, Bengal	Casualties believed to be 11 killed and 32 injured.	..	Playing of music before a mosque by a Hindu funeral procession.
9. 1st June	Hajinagar Paper Mills, Calcutta.	40 injured	..	Objection by Hindus to a Muhammadan passing a Hindu temple to fetch water.
10. 22nd June	Damoh, Central Provinces.	7 injured	Firing ordered	Bakr-Id celebrations.
11. Do.	A village in Darbhanga District.	4 or 5 slightly injured.	..	Do.
12. Do.	Jhusi village near Allahabad.	1 killed and 9 injured.	..	Do.
13. Do.	Maksudpur Thana Katra, Muzaffarpur District.	4 injured	..	Do.
14. 23rd June	Singhassan, Benapatti thana, Darbhanga District.	4 killed	..	..
15. Do.	Shankarpur Sur-sand Thana, Sitemarhi Sub-division, Muzaffarpur District.	No injuries reported.	..	Bakr-Id celebrations.
16. Do.	Bihar Sub-division	No injuries reported.	..	Do.

Date.	Place of occurrence.	Casualties.	Occasions on which firing was ordered.	Cause of disturbance.
17. 23rd June 1926.	Gaya	No injuries reported.	..	Bakr-Id celebrations.
18. Do.	Sihali, Bari Banki District, United Provinces.	9 injured, 1 seriously.	Firing ordered.	Bakr-Id celebrations. Hindus attempted to stop cow-sacrifice by force.
19. 24th June	Delhi	3 killed, 60 injured.	Do.	Bakr-Id celebrations. Immediate cause was the knocking down of a man by a runaway tonga in Khari Baoli.
20. Do.	Gobindpore Thana, Gaya District.	Riot with murder. Number of casualties not reported.	..	Bakr-Id celebrations.
21. Do.	Katra Thana, Muzaffarpur District.	2 persons attacked by mob.	..	Do.
22. 1st to 7th July.	Pabna	19 persons admitted into hospital.	Firing ordered	The immediate cause is believed to be the taking of a Hindu procession with music past a mosque.
23. 15th July	Karachi	11 injured	..	Alleged annoyance to Hindu girl by a Jew convert to Islam.
24. Do.	Calcutta	13 deaths 109 injured.	Firing ordered	Raj Rajeswari procession music before mosques.
25. 16th July	Do.	2 shot	Do.	Muharram celebrations.
26. 19th July	Do.	6 injured	Do.	Do.
27. 20th July	Do.	1 killed	Do.	Do.
28. 22nd July	Do.	7 killed 13 injured.	Do.	Do.
29. 21st July	Purnea, Bihar and Orissa.	1 person injured.	..	Do.
30. 13th-14th June.	Rawalpindi.	14 killed 46 injured.	..	..

REPORTS FROM PROVINCIAL GOVERNMENTS ON THE WORKING OF THE REFORMED CONSTITUTION DURING 1925.

94. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state whether they have asked for and received reports from Provincial Governments on the working of the reformed constitution during 1925 and, if so, to place them on the table?

THE HONOURABLE MR. J. CRERAR: The reply to the first part of the Honourable Member's question is in the negative. The second part does not arise.

RECONSTRUCTION OF THE ROYAL INDIAN MARINE AS A COMBATIVE FORCE.

95. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state what progress has been made in the reconstruction of the Royal Indian Marine as a combative force?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: As has been explained before much constructive work has to be done before the Royal Indian Navy can be brought into being. Legislation is necessary both in England and in India ; ships have to be acquired and adapted for use in the tropics ; details of re-organisation, future administration and finance have to be examined and settled. Considerable progress has been made in regard to all these matters.

It will take some time before final orders can be issued, but I much hope the Royal Indian Navy may be in existence by the end of 1927.

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS IN THE BOMBAY PRESIDENCY.

96. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state whether they have received from the Government of Bombay any proposals with regard to the separation of judicial and executive functions in the Bombay Presidency and, if so, what action they have taken thereon ?

THE HONOURABLE MR. J. CRERAR: No such proposals have been received from the Bombay Government.

PROVINCIALISATION OF THE INDIAN EDUCATIONAL SERVICE AND THE INDIAN AGRICULTURAL SERVICE.

97. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state what progress has been made in the provincialisation of the Indian Educational Service and the Indian Agricultural Service, and in the preparation of the rules to give effect to the provincialisation ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: I would refer the Honourable Member to the answer given to parts (b) and (c) of the question (No. 36) asked by Mr. B. Venkatapati Raju in the Legislative Assembly on the 18th August 1926.

EXEMPTION OF AGRICULTURAL INCOME FROM LIABILITY TO INCOME TAX.

98. THE HONOURABLE SIR PHIROZE SETHNA: Have Government made an estimate of the probable amount of additional income-tax that would be realised in each province if the existing exemption of agricultural income from liability to income-tax were removed ?

THE HONOURABLE MR. J. E. C. JUKES: Government have made no such calculation.

THE HONOURABLE SIR PHIROZE SETHNA: Do they propose to ?

THE HONOURABLE MR. J. E. C. JUKES: They undoubtedly will do so if the particular question becomes a matter of practical politics.

RESOLUTION *re* UNEMPLOYMENT AMONG THE MIDDLE CLASSES.

99. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state what action they have taken on the Resolution anent unemployment among the middle classes passed by the Legislative Assembly on 28th January 1926 ?

THE HONOURABLE MR. A. H. LEY: The Government of India have addressed all major Local Governments on the subject : a copy of their letter has, I understand, been supplied to the Honourable Member.

TRAINING OF INDIANS AS WIRELESS OPERATORS.

100. THE HONOURABLE SIR PHIROZE SETHNA: Have Government prepared any scheme for the training of Indians as wireless operators and, if so, will they be pleased to place it on the table ?

THE HONOURABLE MR. A. H. LEY: I understand the matter has been receiving the consideration of the Director-General of Posts and Telegraphs, for sometime, but no scheme has yet been placed before the Government of India.

INDIANS EMPLOYED IN THE BRITISH LEGATION AT KABUL.

101. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to lay on the table a statement giving the names of Indians employed in the British Legation at Kabul and the duties assigned to them ?

THE HONOURABLE SIR J. P. THOMPSON: The Government of India have not yet been able to obtain the desired information.

ENLISTMENT OF MAHARS IN THE INDIAN ARMY.

102. THE HONOURABLE SIR PHIROZE SETHNA: Have Government received from the Government of Bombay any communication requesting them to consider the Resolution passed in the Bombay Legislative Council on 5th November 1925, regarding the question of giving further opportunities to Mahars of enlisting in the Indian Army and, if so, what action have they taken thereon ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The answer is in the affirmative. The Government of Bombay were informed in March 1926 that while fully sympathising with the Mahar community, the Government of India regretted that under the present organisation of the Indian Army, it was not possible to give effect to the recommendation made by the Bombay Legislative Council. The matter will, however, be borne in mind should a suitable opportunity present itself in the future.

I may add that I personally received a deputation from the Mahar community when in Bombay last April and informed them of the above facts.

DATE OF THE ARRIVAL OF THE SOUTH AFRICAN DELEGATION IN INDIA.

103. THE HONOURABLE SIR PHIROZE SETHNA: (a) Have the Government of the Union of South Africa accepted the invitation given by the Government of India to send a delegation to India ?

(b) Has any indication been given of the probable date of its arrival and of its personnel ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: I would refer the Honourable Member to the press communiqués on this subject which were issued on the 31st July and 21st August, 1926.

FORMATION OF A UNIT OF THE UNIVERSITY TRAINING CORPS AT NASIK.

104. THE HONOURABLE SIR PHIROZE SETHNA: Has an application been received from the authorities of the Arts College at Nasik for the

formation of a Unit of the University Training Corps ? If so, has the application been granted ? If not, why not ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : No such application has been received at Army Headquarters.

APPOINTMENT OF A ROYAL COMMISSION TO INQUIRE INTO THE QUESTION OF BANKING DEVELOPMENT, ETC.

105. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state whether they have received from the Committee of the Indian Merchants Chamber a representation urging the appointment of a Royal Commission to inquire into the question of banking development and organisation of credit facilities and, if so, to state what action they have taken thereon ?

THE HONOURABLE MR. J. E. C. JUKES : The Government of India have not received the representation in question. If, as seems probable, it was addressed to the Government of Bombay, the latter will no doubt transmit it to the Government of India in due course.

GRIEVANCES OF RETURNED INDIAN EMIGRANTS FROM FIJI, BRITISH AND DUTCH GUIANA, THE WEST INDIES, TRINIDAD AND MAURITIUS.

106. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state whether it is a fact that many Indian emigrants have returned from Fiji, British and Dutch Guiana, the West Indies, Trinidad and Mauritius and about 600 of them are at Calcutta desirous of returning to their Colonies ? If so, have Government inquired into their condition and grievances and what steps have they taken to enable them to go back to their Colonies ?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : I would refer the Honourable Member to the reply given by me on the 18th August to the Honourable Sayid Alay Nabi's question No. 29 on the same subject.

REPORT OF THE ROYAL COMMISSION ON CURRENCY.

THE HONOURABLE MR. V. RAMADAS PANTULU : Sir, I gave private notice of a question to the Honourable Mr. Jukes, and if you will permit me, I will put it to him.

Will the Government be pleased to state whether they will make the Report and Appendices of the Royal Currency Commission available to Members of this Council and, if so, when ?

THE HONOURABLE MR. J. E. C. JUKES : So far we have received only a very limited number of copies from England, of which 15 have been placed in the Library of the Legislature for the use of Members. When we receive a further stock, copies will be made available for sale at the Central Publication Branch, Calcutta, and the various agents of the Central Publication Branch. The Finance Department will also be prepared to supply one copy free to any Honourable Member who may care to write and ask for it.

INDIAN BAR COUNCILS BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, with the permission of the Leader of the House may I ask that item No. 9 be taken first—that is the motion for the consideration of the Bar Councils Bill.

THE HONOURABLE THE PRESIDENT : I do not think it is likely to inconvenience the House if the business in to-day's list is taken in the order suggested by the Honourable the Law Member.

THE HONOURABLE MR. S. R. DAS : Sir, I move that the Bill to provide for the constitution of Bar Councils in British India and for other purposes, as passed by the Legislative Assembly, be taken into consideration.

Sir, I trust the House will bear with me if I take a little time in explaining the Bill which I am asking them to take into consideration. It is a very important measure not only from the point of view of the legal profession, which may not interest this House, but also from the point of view of the future administration of justice in which the legal profession play, and always will play, a very important role.

Before I deal with the provisions of the Bill, I should like to point out certain matters with which the Bill does not purport to deal. As the House is aware, the Bill arises out of certain recommendations made by the Bar Committee. They recommended amongst other things that the enrolment and control of legal practitioners who are not entitled as of right to practise in the High Courts should be left to the High Court under the present Legal Practitioners Act and the Bombay Pleaders Act ; so that this Bill does not purport to deal with that class of legal practitioners, but only with the class who are entitled as of right to practise in the High Courts. They also recommended that there should be only one grade of legal practitioners entitled to practise in the High Courts to be known as advocates, not as barristers or yakils, the grade of High Court vakils and pleaders being abolished, but that in Calcutta and Bombay, where special conditions are maintained for admission to plead on the original side, the only distinction should be within that grade which shall consist of advocates entitled to practise on the original side and advocates not so entitled. They also recommended that the distinction as regards practice on the original side should be maintained for a certain number of years after which the Bar Council, to which I shall refer presently, shall determine whether this distinction is to continue or not. The present Bill does not deal with that recommendation. Then they recommended that the dual system, that is, the system under which an advocate pleads and an attorney acts and an advocate has to be instructed by an attorney that that dual system should not be interfered with, but that it should continue in those courts where it now exists that is, in the High Courts of Calcutta and Bombay. The present Bill does not purport to deal either with the original side of the Bombay or Calcutta High Court or with the dual system except in so far as it has been found necessary to make it clear that with regard to these two matters the powers of the High Courts are left unaffected by this Bill.

The recommendations of the Bar Committee with which this Bill deals are those affecting the formation of a single grade of legal practitioners entitled to practise in the High Courts, the establishment of Bar Councils in certain High Courts, their constitution, rights and powers and the disciplinary jurisdiction of the High Court in matters other than contempt of court. The recommendations of the Bar Committee on these matters have not all been accepted in the form and to the extent they recommended : they have in several matters been either amplified or modified in the light of criticisms and suggestions made by the authorities consulted, such as Local Governments, High Courts,

Bar Associations and so forth. Now with those preliminary remarks I propose to deal shortly with the clauses of the Bill pointing out where any important alterations have been made from the present practice.

Clause 1 provides that the Bill applies to certain High Courts, that is, to the High Courts of Calcutta, Madras, Bombay, Allahabad, Patna and Rangoon, but it gives power to the Governor General in Council, if they think fit later on, to make the Bill applicable to other High Courts. Clause 2 deals with definitions and I need not trouble you with that clause. Clause 3 constitutes the Bar Council and gives it perpetual succession.

Clause 4 is an important clause and deals with the composition of the Bar Councils. The House will notice that it provides that it shall consist of 15 members of which one is to be the Advocate General, 4 to be nominated by the High Court and of these four 2 may be Judges of the High Court; the remaining 10 are to be elected by and from among advocates, but of these 10 the clause provides that 5 at least shall be advocates of 10 years' standing. Then, in order to enable barristers or rather those who are entitled to practise on the original side of the Calcutta and Bombay High Courts to become members of the Bar Councils, it provides that of these 10 members to be elected the High Courts at Bombay and Calcutta, respectively, shall prescribe the proportion to be elected from those entitled to practise on the original side. This clause makes a further provision which, I think, I should explain. Under a recent ruling of the Calcutta High Court about 150 vakils who hitherto were not entitled to practise on the original side have been admitted to practise on the original side. This number is likely to increase with the result that these vakil advocates, if I may use the term, are and are likely to continue to be in the majority on the original side, and it was felt that, if it was left to the High Court merely to determine the proportion of those to be elected from among those practising on the original side, a barrister would have very little chance of being elected since they will always be in a minority on the original side. It has accordingly been provided in the last part of sub-clause (3) that out of the number to be elected from those practising on the original side such number as may be fixed by the High Court shall be barristers. It has been left to the High Court to ascertain on particular occasions what the proportion of barristers to be elected should be. Of course I may point out that as barristers cease to exist in these High Courts, as I am afraid will inevitably be the consequence of this particular Bill, the number of barristers in the Bar Councils will gradually diminish. This clause, the House will notice, also provides that the Advocate General shall be chairman of the Bar Council in Bengal, Madras and Bombay because hitherto the Advocates General in those Courts have always been considered to be the head of the Bar.

Clause 5 deals with the constitution of the first Council; clause 6 gives power to the High Court to make rules regarding the election, constitution and procedure of the Bar Council, and to the Bar Council the power to add, rescind or amend such rules with the previous sanction of the High Court. That is to say, the first set of rules are to be made by the High Court and after the Bar Council is formed they may amend or rescind or add to the rules with the previous sanction of the High Court. Clause 7 gives the Bar Council power to make bye-laws consistent with the Acts and the rules.

[Mr. S. R. Das.]

Clauses 8 and 9 deal with the qualifications, admission and enrolment of advocates. These are important clauses. They provide that no one shall be entitled to practise in any High Court unless his name is entered in the roll of advocates which the High Court has to prepare and maintain, but a copy of this roll is to be sent by the High Court to the Bar Council because they will need this roll for the purposes of the election of members. This provision, however, does not affect attorneys as you will notice, because, as I told this House in the beginning, it is not intended to deal with attorneys at all. With the previous sanction of the High Court the Bar Council may make rules to regulate the admission of persons to be advocates. But the clause points out that these rules are not to limit the power which the High Courts now possess of refusing admission to any person at their discretion, nor can they disqualify a woman for admission by reason only of her sex. Sub-clause (4) of clause 9 is important and I would draw your attention to that. That sub-clause is intended to make it quite clear that the right of a Bar Council to make rules as to qualifications for admission as advocates does not in any way limit the power of the High Court to prescribe qualifications for those who intend to practise on the original side of the Bengal and Bombay High Courts : that is to say, the qualifications for practising on the original side are left to the High Courts : they have to prescribe the necessary qualifications : the Bar Councils have nothing to do with them. This is really in consonance with the recommendation of the Bar Committee that for the present at any rate the original side should not be interfered with. In fact throughout the Bill the intention has been to keep the original side of the High Courts outside its scope.

Clauses 10, 11, 12 and 13 deal with questions of discipline. Shortly, the scheme is that the ultimate right of the High Court to deal with matters of professional or other misconduct is left untouched, but it is provided that, before passing final orders, the High Court should refer the matter for investigation to the Bar Council or after consultation with the Bar Council to a District Court, that the inquiry by the Bar Council should be conducted by a tribunal of not less than three members of the Bar Council to be appointed by the Chief Justice, that the finding of the tribunal is to be forwarded to the High Court who shall pass final orders after giving an opportunity to be heard to the advocate concerned, to the Bar Council and to the Advocate General. I should perhaps explain that the reference to the District Courts with regard to which there has been a certain amount of controversy in the other House is merely intended for those cases where it would be difficult or expensive to bring witnesses from a District Court to the High Court and facts calling for evidence have to be inquired into.

Clause 14 deals with the question as to the Courts where the advocate is entitled as of right to practise. As I am moving an amendment to that clause I will deal with it at length later on ; but I may point out that it does not entitle an advocate as of right to practise on the original side—he can only do so if he has the qualifications which under clause 9 (4) the High Court has to prescribe. This clause, however, entitles him to practise in any other High Court if that other High Court or the Bar Council attached to that High Court have not imposed any conditions with regard to it. If they have imposed any conditions

then he can only practise in those other High Courts subject to those conditions. It has altered the present practice to this extent that now before an advocate of the Calcutta High Court can appear in a case in the Bombay High Court the permission of the Judges has generally to be applied for ; but the right is given under this Bill to the Bar Councils to make rules if they like as to the conditions under which members of other High Courts should be entitled to appear in a case in that High Court. If no such rule has been made then he is entitled as of right to go and practise there, but if any rules are made then he would be subject to those rules.

Clause 15 gives the Bar Councils the general power to make rules with regard to the rights and powers of the advocates, facilities for legal education, the conduct of any examinations they may hold, the charging of fees therefor and the investment and management of their funds ; but they can only make these rules subject to the previous sanction of the High Courts. I would only point out this important fact that throughout this Bill with regard to the powers that have been given to the Bar Councils, they are, so far as disciplinary matters are concerned, in the nature of advisory bodies ; and so far as other powers are concerned such as qualifications of advocates, etc., they are subject to the previous sanction of the High Court.

I do not think I need draw your attention to any other clauses of the Bill. The other clauses are not important—they amend certain previous Acts and so forth. Before I conclude perhaps the House will allow me to strike a personal note. Up to a very recent time I had the honour of being the head of the Calcutta Bar, a Bar which has, I am proud to say, for nearly a century upheld the very high traditions of the English Bar. It is a matter of regret to me that it should fall to my lot to take the first definite step towards the extinction of that Bar, for this Bill undoubtedly will have that effect in time. But India is now passing through a stage when it seems to me that sentiment rather than practical considerations seems to guide its course, and I felt throughout when I was serving on the Bar Committee that the best course I could take—personally, I am talking of myself personally,—was instead of trying to resist this sentimental force, to try and guide it into the safest channel possible, and I claim that this Bill goes, as far as it is possible to go, consistently with the future of the legal profession and the administration of justice. Sir, I move the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to provide for the constitution of Bar Councils in British India and for other purposes, as passed by the Legislative Assembly, be taken into consideration.”

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominate Non-Official) : Sir, I am afraid I cannot give my willing consent to this measure. This Bill is of a revolutionary character making changes of a very drastic nature in the traditional constitution of the Indian Bar. It is an irony of fate that one of the most distinguished members of the Calcutta Bar should, by virtue of his office, be the unwilling instrument for moving a Bill of this sort in this Council. (*An Honourable Member* : “ Not unwilling.”) I am coming to that if you will give me time. Sir, before I enter into a discussion of this Bill I want to make my position clear.

[Sir Maneckji Dadabhoy.]

I had the honour and privilege of belonging to the English Bar for nearly 39 years. I was called to the Bar in 1887, and had the privilege of being an Advocate of the Bombay High Court as well as of the Central Provinces Judicial Commissioner's Court. Sir, I mention this fact in order that there should be no doubt as to the motives which guide me in taking this opposition to-day. I have regularly practised for 30 years, but since 1920 I have altogether ceased to practise, and I have therefore no axe to grind. I have no relatives at the Bar and what I am speaking to-day is absolutely in the interests of the Bar, and as I am desirous that the legal profession in this country should always follow the high traditions of the English Bar and should not be impaired by sickly sentimentality which is to be met with sometimes in this country.

Sir, I also want to make it clear that in the expression of views that I offer to-day, I do not desire to cast any reflections on the vakil class with whom I had the privilege for many years to be associated in the course of my practice. I have the highest respect and admiration for many vakils in this country. I know in the Bombay and Madras High Courts a number of names can be mentioned of vakils of great distinction who have shed lustre on the legal work of those Presidency Bars. In Calcutta and all over this country the names of Dr. Rash Behari Ghose and Sir Ashutosh Mukerjee will ever be cherished with reverence and admiration. My fault with this Bill is regarding the important principles and procedure which it covers, and therefore I trust that my Honourable Colleagues, some of whom are vakils here and for whom I have much respect will not misunderstand me in any way. Sir, the Honourable the Law Member has said that it is a simple Bill. It is true it looks very innocuous but if I was not afraid of the many potentialities which it involves, if I was not afraid of this Bill being made in future the thin edge of the wedge, if I was not apprehensive of many other amending Bills being brought in a short course of time after this Bill has been passed, I would perhaps refrain from offering any criticisms. I am afraid I shall take some time of this Council and I ask this Council to be indulgent towards me as it is very necessary that I must very briefly trace the history and genesis of this legislation.

Sir, it is not such an innocuous Bill as it seems to appear. We are all aware of the tempestuous times and the excitement that prevailed in this country after the partition of Bengal; that one of the painful results of that partition was that in Bengal a great deal of ill-feeling was created and unhappily the English Bar to a certain extent was boycotted. Unfortunately the poison permeated into the Presidencies of Bombay and Madras, and there also to my personal knowledge some Indian Solicitors refused to brief English barristers, and the result was a diminution in the number of the English Bar and a fall, a deleterious reduction, in the prestige, position and general talent of the Bar. Sir, that spirit continued when the Reforms were introduced, and at that time the atmosphere was simply electrified. There was a wild talk of national schools, national education, national colleges, national universities, and the Bar was not even left alone. The agitation then started about a national Bar. Those were the first seeds that were sown and to which this Bill partly owes its origin. After the introduction of the reformed constitution unfortunately Lord Haldane had expressed an opinion in 1920 that there should be a Bar for legal education in this country. Unfortunately His Lordship had not visited this country, nor

was he aware of the conditions then prevailing in this country. Moreover, His Lordship's recommendations were not only of a singular character ; in addition His Lordship had recommended the creation of King's Counsels and had suggested other avenues for the purpose of compensating for the disabilities which the creation of an Indian Bar would impose on barristers practising in this country. In 1921, a definite Resolution was brought before the Assembly by Munshi Iswar Saran who asked that legislation should be undertaken with a view to create an Indian Bar so as to remove all distinctions enforced by Statute or by practice between barristers and vakils. He recommended that all persons should be called to the Indian Bar in the same way as they may be called to the Bar in the self-governing Dominions. He further advocated the removal of all distinctions between vakils and barristers as regards precedence, pre-audience and production of Vakalatnamas and eligibility for higher judicial appointments. Immediately after that Mr. Neogy introduced a Bill in the Assembly to remove all distinctions between barristers and vakils as regards the right to practise on the original side of the High Courts at Calcutta and Bombay. As if this was not enough, Mr. Rangachariar introduced another Resolution immediately after that in the Assembly to amend the law relating to legal practitioners in India, and to empower the Central Government and the Local Governments to establish a Bar Council in each province.

Sir, the combined effect of all these Resolutions was too much for the Government of India to withstand. I do not know what to say, but it is certain that either in a moment of weakness or in a moment of enthusiasm, the Government submitted without deep consideration to the proposals of the vakil hierarchy in the Assembly. Sir, this Bill which is said to be of a tentative character is intended to be a first step towards the unification and eventual autonomy of the legal profession in this country. The Government immediately referred this matter to the Bar Committee and the proposals of the Bar Committee were formulated, and Government sometime after that introduced a Bill in the Legislative Assembly which was enthusiastically passed and brought forward for the approbation of this Council to-day. I must express my disappointment here that the Government, when they had decided to embark on legislation of such great importance, which was going to undermine the bar constitution of this country which has existed for over a hundred years, did not give this House an opportunity at the earliest or even at a later stage of expressing its opinion on the subject. Sir, even the Bar Committee's Report was not placed before this House for consideration, and the Government proceeded to legislate without taking this House into their confidence, or consulting it.

Sir, the Bill, it is true, as the Honourable the Law Member has said, is of a tentative character ; I do not dispute it. It may even be said that some of its provisions are of a harmless character, but, as I have pointed out, this Bill is the precursor of many other Bills which will follow, and I feel that it will undermine the foundations of the established constitution in this country without any reasonable warrant or justification. Sir, the idea underlying this Bill, on which there is a great deal of divided opinions, is to aim at the unification of the various grades of practitioners in this country, and to obtain a measure of autonomy and to accord some measure of self-government to the Bar in this country. In my humble opinion this ideal is entirely wrong. This

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unification, if it will be attained, will be at a great sacrifice. The unification of all grades of practitioners will result in lowering the standard of professional efficiency and professional conduct. Sir, no one can possibly deny in this House that it is to the contact with members of the English Bar, who in previous years used to come here in large numbers, that the present position of the legal profession in this country is mainly due. By contact and association with men of talent, men of ability who came from England, Scotland and Ireland, this Bar grew in intelligence and importance and in the acquisition of judicial ability and knowledge. There is no gainsaying that the present position of the Bar is due to that fact. My Honourable friend the Law Member had the candour to admit this morning that the passing of this Bill will diminish the strength of the English Bar coming out to this country. Here, Sir, is an important admission. Further, Sir, I am not satisfied that this is a measure of self-government which can be introduced safely and in a profitable manner. The object of the creation of these Bar Councils is to give them autonomous powers in the administration of their own bar affairs, but is it possible, is it conceivable that these Bar Councils under the present circumstances can be useful and effective in any way and successfully perform the work which this Bill aims at ? Can they ever undertake the legal education ? Have they got the necessary finances ? Can they detach themselves from the Presidency universities which undertake the imparting of legal instruction and knowledge ? These are matters which are beyond the power of these Bar Councils ever to attain. I do not feel that these Bar Councils will ever develop into efficient bodies. My apprehension is that these Bar Councils will in time become effete bodies and develop internecine quarrels and professional jealousies and rivalries. Sir, let us take the provisions of clause 4 and examine if what I say is borne out by the projected constitution of these Bar Councils. Clause 4 gives power to create a Bar Council in each Presidency with 15 members, of whom 4 shall be persons nominated by the High Court, of whom not more than two may be Judges of that Court. We know that many of the Judges in some of the Presidencies have already expressed their unwillingness to sit on these Councils, in which they would be in a position of helpless minority. As regards the 10 other members elected to these Bar Councils, the method of selection is indicated in clauses 2 and 3. Can my Honourable friend the Law Member guarantee that the election of these 10 members will be conducted strictly on lines of professional etiquette and ability ? Is there any guarantee that where there is a preponderance of Hindu vakils at a particular Bar such vakils will not find admission into these Bar Councils to the detriment of the members of the profession of other communities and that elections conducted on communal lines will gradually sow seeds of bitterness between the members of the various communities and will result in unpleasant controversies and jealousies ? I cannot possibly conceive that such things are not likely to happen. We have only to cast our eyes on what is going on in this country to-day ; we have only to cast our eyes back to the debate which took place only three days ago in the Assembly, where the Hindus and Muhammadans attacked each other and Members made charges against each other in connection with a debate on a simple Bill for the amendment of the Criminal Procedure Code. Sir, I am firmly of opinion that these Bar Associations or Councils, call them what you may, will not be free from political, communal

and religious controversies. Further, in my opinion, the tendency of this clause 4 will in time have the effect of tearing off the established control of the Presidency High Courts over the profession. These bodies started under these conditions, must in time claim absolute autonomy and independence of control, and they will protest against and oppose all interference from the High Courts. It is true that a provision has been made in clause 9, sub-clause (4), for exempting the original side of the High Courts from the operation of this Bill for the present. This was done under strong protest from Calcutta and Bombay, but though this provision appears for the present in this Bill, I fear, before long, the same powers and privileges will be claimed by the entire profession.

In this connection.....

THE HONOURABLE SAIYID RAZA ALLI : May I offer my services ? Can I help my Honourable friend to find the passage ?

THE HONOURABLE SIR MANECKJI DADABHOY : I am quite able to look after myself ; thank you very much ! Sir, I refer in this connection to paragraph 56 of the Report of the Indian Bar Committee :

" We have already said that we look forward to the time when pleaders and others entitled to practise only in subordinate courts will disappear and all legal practitioners will be entitled to practise in the High Courts as well as in the subordinate courts..... For this reason and also because we think that it would be better for the present to confine the membership of the electorate for the Bar Councils to the highest grade of legal practitioners, that is, those who are advocates of the High Court, we propose that all legal practitioners should continue as at present to be enrolled and controlled by the High Court."

Sir, there you have an explicit expression of opinion about the abolition of all distinctions and the placing even of vakils practising in subordinate courts on the same level as advocates. I am sure my Honourable friend the Law Member will see in this recommendation an impending demand. Before long, I prophesy, that practitioners practising in various Courts subordinate to the High Courts will come forward with a request and ask on the authority of this Report, to be placed on the same footing ; and I wonder how my Honourable friend will then be in a position to refuse their request ! Sir, in my opinion this provision, though it gives a temporary relief, is of no value at all.

Sir, I have no desire to take up the time of the Council by going into various clauses and explaining them in detail. I will take only one or two more clauses to show whether my point of view is right and proper or not. Clause 10 is framed for the punishment of advocates and pleaders for misconduct. Now what is the effect of clauses 10, 11 and 12 ? My Honourable friend the Law Member said there is a sentiment and we must satisfy that sentiment. If this Bill is introduced for the purpose of satisfying mere sentiment, I have nothing further to say. But what is the effect of these provisions ? What are you doing ? The Bill is simply creating a dual machinery and thereby complicating matters. The High Courts will send cases of misconduct to the Bar Councils. The Bar Councils will take evidence—I mean the tribunals appointed by the Bar Councils will look into the case, record evidence and send the cases up for the final orders of the High Court. What is the result of this ? The result of this is that a member of the Bar

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who unfortunately becomes the victim of a prosecution or a charge under this clause will have to appear before his brother lawyers for adjudication. Putting aside for the moment the professional jealousy and the strong individual feeling against successful barristers which prevail in many parts—I do not wish to attach more than necessary importance to that; but will not this unfortunate practitioner have to undergo a serious expenditure? And what are you doing further? On account of their larger numbers in time the vakils will monopolise all the seats in these Councils. What you are simply doing is that you are placing barristers of eminence and ability who will come out and practise in these Courts or who are now practising there—you want these vakils with inferior education, equipment and knowledge to sit in judgment on them. To my mind, Sir, this is simply monstrous, that the barristers qualified in England, who are under the jurisdiction and control of the Benchers of their Inns of court—barristers whose misconduct if any can only be dealt with by that body,—you are transferring that to a local body created from classes who are not free from communal, political and professional jealousies. I, Sir, cannot reconcile myself for a moment to a position of this kind. Secondly, Sir, what is going to happen? The Judges may, if they like, make further enquiry. The waste of time and the expenditure of money will be enormous. These provisions will not be of a useful character. It is true that the Assembly has cheerfully accepted this Bill but I know that they have accepted this Bill not because they are enamoured of it or because they like the emasculated provisions of this Bill, but because they feel that this is the thin end of the wedge. You may take steps to establish the Bar Councils, and the conferral of all other privileges and the destruction of the existing traditions of the Bar will inevitably follow. Sir, it has been said that the object of the Bar Committee was not to prevent or discourage the coming out of barristers from England or Indians going to England and qualifying themselves for legal instruction there. That is true but may I know, Sir, if these Bar Councils are established and if this Bill is passed, is it conceivable that English barristers will come out to this country under such conditions of indignity and disability? Sir, is it likely that Indians who can afford to go and take their education in England will go there only to receive that education and become barristers and come out to be placed on a footing of equality with the latest recruit of the vakil class in this country? Sir, will that lead to the expansion and development of legal talent in this country? Sir, already indications are not wanting that the several High Courts are unhappily suffering from a lack of judicial and legal talent. As for the Bar most of the lawyers found now-a-days are absolutely poor, there are some of moderate and average ability and with a few exceptions on the Bench in regard to the majority of Judges it could be safely said without any disrespect or disparagement that there is no outstanding legal ability or talent such as distinguished the various High Courts of this country only a few years ago. Sir, in clause 5 special provision is made regarding the constitution of the first Bar Councils, full franchise has been given to all practitioners irrespective of the nature of their qualifications. Advocates, vakils and pleaders all will have a right to vote and aspire to seats in the Councils on their first formation.

THE HONOURABLE MR. S. R. DAS : Those entitled to practise in the High Court.

THE HONOURABLE SIR MANECKJI DADABHOY : I know that and I have already drawn the distinction that the Bill does not extend to practitioners in subordinate courts. I wonder how my Honourable friend Mr. Das welcomes this proposal.

Sir, I do not desire to take up any further the time of this Council. I feel that this is a retrograde measure. I am not personally interested as I have already stated in the profession any longer. (*An Honourable Member : "Hear, hear."*) I am only speaking from a disinterested point of view for the maintenance of the status, dignity and the prestige of the profession which has been built up in this country by custom and tradition during the last century. To oppose this Bill at this late stage is to cry in the wilderness. The Government are determined to pass this Bill. This Bill is introduced on the last day of the Session to be forced down the throat of this Council. So far as the Government are concerned the Bill is a *fait accompli*. But, Sir, I cannot ignore the important apprehensions that I have felt in connection with this Bill. Though I know that to-day the Government will pass this Bill with their official vote and with the help of the majority of the Members here including my esteemed *vakil* friends, I feel that, if I had not said this much to-day on this subject and failed to place on record my views, I would have been remiss in my duty to this Council. I know that this Bill is going to give trouble to Government ; I am confident that this Bill is going to give trouble to the several High Courts ; I know that this Bill will create bitterness of feeling which will be too late to dissipate or avoid. I also prophesy that in another ten or twenty years you will see the Bar in India reduced to a low standard, a sort of mukhtear Bar with *pettifoggers* all over the country. That consummation is certain to be reached to the chagrin and disappointment of men who are supporting the Bill to-day.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : Sir, I am not prepared to take up much of the time of the Council, and I propose to reply in the main to the objections taken by my Honourable friend Sir Maneckji Dadabhoy. I am sorry that I have to make a venture of this kind as I heard from him that he was called to the Bar in the year 1887, which happens to be the year in which I was born. But, Sir, I have been long enough in this profession from the year 1911 onwards, and I can say with some little confidence that the fears and anxieties which trouble my Honourable friend will not trouble other Members of this Council who do not take such a gloomy view of things. I am glad to note that my Honourable friend in opposing this measure says he has no axe to grind and that he does not mean any reflection on the *vakil* class. But I am afraid, having heard fully the arguments adduced by him and the statements made by him in the course of his speech, I am inclined to think that he had at the bottom of his mind some remote idea which, though not amounting to a reflection on the *vakil* class, was something approaching to that. But let it pass. I also further note that he would have had no serious objection to the measure which has been introduced, if it were not the thin end of the wedge. But I hope and trust that the small beginning made by the Government in laying the foundations of the constitution of the Bar and in giving self-government to the Bar will be only the thin end of the wedge, and that in the course of time the self-government now granted to the Bar will be placed on

[Mr. P. C. Desika Chari.]

broad foundations by successive stages of successive Bills introduced in the Legislature of which I hope the present Bill is only the precursor. The gist of the arguments of my Honourable friend, Sir Maneckji Dadabhoy, comes to this, that there has been an ancient institution of the English Bar with ancient traditions which are likely to be wiped out by the present Bill. But I hope and trust that the Honourable Members of this House will take a proper view of the case and that they will agree with me when I say that English barristers have been allowed in this country only as advocates of Indian High Courts. As English barristers they had no standing in Indian Courts, though on account of the importance and influence which they were commanding they could enforce some of their own traditions on the Bar which consisted from the earliest times of not only English barristers but of Indian vakils as well. It is too late in the day to question the capacity of the Indian vakils, and I can now say without fear of contradiction that among the vakils practising in the various High Courts you can easily pick out any number who are equal to, if not better than, their English compeers.

It is not necessary for me seriously to contest the position taken by my Honourable friend, Sir Maneckji Dadabhoy, that of late the members of the indigenous Bar, that is, the Indian High Court vakils, have not produced men of any outstanding merit during the last fifteen years. I do not think it is necessary for me to quote instances. It is well known that during the last fifteen years we have come across men of outstanding merit who can hold their own in any country in the world in the legal profession. I am inclined to think my Honourable and learned friend has been somewhat pessimistic in his view of the effect of the constitution and the working of the Bar Councils. Perhaps being younger in age and outlook I take a different view, and I hope my views do not differ from the views of the majority of the Members in this Council that the introduction of the Bar Councils will be a happy augury in the constitution and development of the Bar in India. My honourable and learned friend has been quoting several of these clauses as regards discipline to show that they are unnecessarily complicated. On the other hand, I am inclined to think that there are various safeguards in each and everyone of those clauses which provide ample safeguards against the so-called tyranny of the brother members of the Bar towards the unfortunate people who may be hauled up before them for enquiry and punishment. My Honourable and learned friend has been waxing eloquent over the troubles which the Government are inviting by introducing a measure of this kind. I do not know what troubles there can be; the members of the profession have been working shoulder to shoulder all these years, and the traditions of the Bar are surely maintained by the various members of the profession who are drawn from various classes. I believe an *esprit de corps* between members of the Bar will continue and in the near future produce affinity and concord between the various religionists whom they represent.

With these words I heartily support this Bill and hope it will be received with great thanks by the members of the legal profession who are also members

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I had actually no intention whatsoever of speaking upon this

Bill, for I am neither a *vakil* nor a barrister, and yet if I do so it is because I think it is necessary for the Council to refute some of the arguments advanced by my Honourable friend, Sir Maneckji Dadabhoy even to a greater extent than the speaker who has just resumed his seat was endeavoured to do.

The Honourable Sir Maneckji Dadabhoy regards this Bill as of a highly revolutionary character. He thinks Government are going to lower the prestige and position of the members of the Bar. The Honourable the Mover, Mr. S. R. Das, is himself a barrister, and as he has told us, he was also a member of the Committee responsible for these recommendations. He has further told us that perhaps we have in this age to yield to sentiment to a certain extent, though on practical grounds the suggestions made may not be quite satisfactory. I would like to remind my Honourable friend, Sir Maneckji Dadabhoy, that on that Committee there were also other eminent barristers including Sir E. Chamier, Mr. Justice Coutts Trotter, Colonel Stañyon and others, and in spite of that we have before us a perfectly unanimous report, so that all the points which my Honourable friend has advanced to-day before the Council must have been seriously weighed and considered before the Committee arrived at unanimous conclusions.

THE HONOURABLE SIR MANECKJI DADABHOY : In the light of events in 1921.

THE HONOURABLE SIR PHIROZE SETHNA : There are some perhaps—I am not amongst them—who are of opinion that we are so far advanced that instead of going to the Privy Council we should have a Supreme Court in this country. The time may not be ripe now for a Supreme Court but we are gradually progressing towards it, and this Bill is one of the stepping stones which will eventually give us a Supreme Council when we are ready for it.

The Honourable Sir Maneckji Dadabhoy said that the attitude of the *vakils* towards English barristers is most questionable, and he referred to instances in Calcutta and Bombay where he says English barristers were boycotted. I was exceedingly glad to find that the Honourable the Law Member emphatically interjected by disputing this statement. I hope that in the course of his reply he will tell us more about this subject. Not being a lawyer myself but as one who has tried to follow events happening in this country, so far as I know, there has never been a boycott of British barristers either in Bengal or Bombay as a class.

THE HONOURABLE SIR MANECKJI DADABHOY : Question !

THE HONOURABLE SIR PHIROZE SETHNA : There may have been a boycott of individuals for some particular reason; and I remember an instance of such a boycott for a very few days, such attitude was taken up not only in regard to a barrister or barristers but also in regard to a High Court Judge or Judges, but that was only temporary, and perhaps justified. In fact what the *vakils* or solicitors did cannot possibly be regarded as a boycott. On the other hand, although that also cannot be called a boycott, I am not wrong in saying that there was a time up to only fifteen or twenty years back when there was an absolute boycott of Indian barristers, and by whom ? This boycott was by English solicitors. I do not blame those English solicitors for the boycott of Indian barristers at that time. There was good reason for such boycott, if you call it a boycott.

THE HONOURABLE SIR MANECKJI DADABHOY : They merely followed the first boycott. The first boycott was directed towards the English Bar. Then the European solicitors in their turn refused to brief Indian barristers.

THE HONOURABLE SIR PHIROZE SETHNA : I have allowed Sir Maneckji Dadabhoy to intervene, but he will correct himself when I remind him that the so-called boycott he refers to happened in the last decade. The so-called boycott I refer to existed twenty and thirty years ago. I say that in those days there were no Indian barristers of high repute, and I do not blame the English solicitors therefore for not retaining at that time the services of Indian barristers. What are the conditions to-day ? In Bombay and at Calcutta English solicitors retain the services of Indian barristers just as freely as do Indian solicitors the services of English barristers. The point is that if there is real merit, whether a barrister is English or Indian, the legal profession are prepared to engage him.

This Bill has not been introduced with the intention, as my Honourable friend contends, of lowering the position of British barristers. On the other hand, it is for "levelling up" the position of vakils and advocates. To-day there are scores of vakils of repute. He has named only one or two of bygone days, Dr. Rash Behari Ghose and Sir Ashutosh Mukerjee. I am not conversant with the names of men outside Bombay, but I give the names of some eminent Bombay men such as Mr. Bhulabhai Desai, Mr. Kanga, Sir Chiman Lal Setalvad, Mr. Dinshaw Mulla and many others who are only advocates but can take rank with the ablest English barristers in the land. As I have said, this Bill merely contemplates the levelling up of the position of such vakils and advocates.

My Honourable friend said that Government have yielded in a moment of weakness or of enthusiasm. Sir, I am surprised at this statement. I give my friend credit for the courage of his convictions, and perhaps he believes in all what he has said as absolutely correct ; but I must add that my Honourable friend is not moving with the times when he makes the observations which he has made before this House to-day. We are progressing in almost every direction, and particularly in the direction of law. My Honourable friend himself interjected when another speaker was addressing the House and himself admitted that in the High Courts Indians have proved their worth. In every department Indians have proved their ability but in no department have they proved their ability as much as in the department of law. I would remind my Honourable friend that vakils are advancing and progressing in their profession just as much as doctors are in this country. My Honourable friend opposite, the Honourable General Symons, the head of the Indian Medical Service, will bear me out when I say there was a time in this country, 20 or 25 years ago, when the only consultants were I. M. S. men. That is all changed now. There are still some I. M. S. consultants but there are many others almost all Indians, who have attained the highest medical and surgical distinctions. The same is the case with vakils.

On the whole we have more eminent men amongst the vakils than perhaps among the barristers. My Honourable friend distinguishes between barristers and vakils, but he forgets that there are barristers and barristers and vakils and

vakils. Permission will only be given to appear in the High Court to really able men, whereas at present a barrister is allowed to practise so long as he has passed his examinations. There are many Indian barristers who do not even speak English correctly and yet my Honourable friend would give them power and prestige and run down vakils much their superior. So far as I know the Advocate General of Bengal has never been a vakil, but I am glad to say that the position of the Advocate General of Bombay and even previously to that, the position of the Advocate General of Madras have been filled by vakils. The Advocate General at Madras to-day is Mr. T. R. Venkataram Sastri and the Advocate General of Bombay is Mr. Kanga, the former a vakil and the latter an advocate. Therefore the observations of Sir Maneckji Dadabhoy are not justified and it is not right for him to run down the vakil class as he has attempted to do to-day.

In drawing attention to clauses 10 and 11, Sir Maneckji says by giving the right to Bar Councils to try cases this will lead to very considerable confusion and perhaps victimisation of individuals. Now, Sir, in this connection nothing is likely to be done in the future than what is being done at the present moment. We have Bar Councils to-day, but they are not legally recognised. This Bill attempts to do that. Even to-day, whilst there is a Bar Council or Bar Association which is not legally recognised, if anybody is pulled up in regard to unprofessional conduct, the High Court does not decide without reference to the Chairman of such Bar Council and attaches the greatest importance to his views, which are the views of his Council or his Association as it may be called.

THE HONOURABLE SIR MANECKJI DADABHOY : There are separate Bar Councils for pleaders as well as for barristers.

THE HONOURABLE SIR PHIROZE SETHNA : And therefore my Honourable friend ought to be pleased that they are going to be united. My Honourable friend said there will be a danger to the High Court by having too many vakils in these Bar Councils. There was a time when there were not many Indians in the Legislative Councils, but they have now come in in large numbers. Are they giving so much trouble to the Government that they cannot carry on the work of the administration ? Surely the High Court will be able to carry on its work, and carry it on more efficiently because of the proposed Bar Councils.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, my friend Sir Maneckji Dadabhoy has introduced in the course of his speech more heat than light on this subject. I, Sir, do not propose to follow his example. I on my part shall try very briefly to induce him to see the injustice of the present practice. The Honourable Sir Maneckji Dadabhoy, I am sure, knows a good deal about the profession of law, to which he was called, according to him, in 1887. I was glad to learn from his biography given by himself that he practised at the Bar till 1920. I for one would have liked to know a little more about himself and his doings. How many years was he in active and actual practice during which he did nothing but practise at the Bar. That, however, is only by the way. I will ask Sir Maneckji Dadabhoy and others who are of his way of thinking just to consider how the present system is worked. If this Bill is withdrawn by the Honourable the Law Member the present practice will continue in force, and what is the present practice ?

[Sayid Raza Ali.]

A has a son B. B appears, we will say, at the Matriculation or Intermediate examination and gets "plucked." The father being a rich man, sends his son B to England. There, after passing an admission examination, he is admitted to the Inns of Court and after eating the necessary number of dinners and passing an ordinary examination, B comes out as a fullfledged barrister. Now take the case of a man who has taken the highest degrees from one of the Indian universities. He may be an M.A., an M.Sc., or D. Sc., and after that he may have taken not only the LL.B. degree but may have taken honours in law. He gets himself enrolled in one of the High Courts. Being a vakil, the result is that the Indian M.A., M. Sc., LL.D., is, by virtue of his position as a vakil, junior to B, who went out after having failed in the Matriculation or Intermediate examination and has come out as a barrister. I ask Sir Maneckji Dadabhoy, is this what he calls justice and fair play ? Is this the system he wishes to be maintained ? Sir, I must congratulate the Honourable the Law Member that, though he is a barrister, he has had the courage of his convictions, and because he agrees with the Bar Committee's Report he has, after going into the whole question, brought forward a motion of this momentous character. Sir, I need not dilate on the present iniquitous manner in which the present system is working. I shall only give this Council a very short story from which Honourable Members will be able to see for themselves how unjust and iniquitous the present system is. A well known vakil, a very senior man, was engaged at a fabulous fee, to argue a very complicated mortgage appeal. The claim involved several lakhs of rupees. It so happened that because some miscellaneous work had to be done in connection with the appeal, a barrister-at-law of about six or seven years' standing was engaged to do it. When the case came up for hearing the junior man, the barrister, who unfortunately was not in very flourishing practice, insisted on his right to argue that most complicated mortgage appeal. He had in fact been paid a very small sum to do that miscellaneous work ; but, Sir, my informant told me that simply to get rid of him a thousand rupees had to be paid. Let the Honourable Sir Maneckji Dadabhoy note this.

THE HONOURABLE SIR MANECKJI DADABHOY : Are there no black sheep among vakils ?

THE HONOURABLE SAIYID RAZA ALI : There is no question of black sheep. I am not mentioning this to lay any charge. My Honourable friend has wholly misunderstood my point. The barristers as a rule are a body of men who care very much for their professional honour. That is not the point. The point is that it is a question after all of efficiency ; it is a question after all of competency. I do not say that all the vakils are efficient and all the barristers inefficient. There are barristers of whom the Honourable Sir Maneckji Dadabhoy would have every reason to feel proud just as I have on my side of the Bar hundreds of vakils who can hold their own against any barrister in this country. But that is not the point. The point simply is, why subject to disqualifications a man of high ability, a man of high intellect, a man of high education ? In fact where the Honourable Sir Maneckji differs from the Government is that he does not look upon the principles of the Bill from the right view point. The two main principles of the Bill, if Sir Maneckji will carefully go through the Bill, he will find are (1) to entrust the Bar with a certain measure of autonomy ; that is the first principle ; the second principle,

as was hinted at by the Honourable Sir Phiroze Sethna, whom I must congratulate on his very well informed speech considering it dealt with a profession to which he does not belong, is to level up and not to level down. I do not know whether the Honourable Sir Maneckji Dadabhoy would like this uniform system to be created in India by bringing down the barristers to the level of the vakils. I hope he will not. My humble view is—and I am very glad that that is the view taken by the Government of India—that instead of lowering the barristers to the level of the vakils the vakils should be raised to the level of the barristers. I really do not see what objection my Honourable friend Sir Maneckji Dadabhoy has to that.

In the course of a very lengthy speech he has made some points which really deserve careful consideration at the hands of this Council as also of the Government. One of these points was that it may be that at the time of elections to Bar Councils communal strife and communal discord may have free play. Now that is a point, I am free to confess, which should be borne in mind. It may be that there will be a tendency in the election of certain Bar Councils to rely mainly on prejudice and passion—I mean communal prejudice and communal passion. It may be so, but that is no reason for turning down the whole Bill. Should not the Bill be given a fair chance? Personally I should say that I would have been immensely delighted if the Government had gone further than they have actually done; but after all being one who is pledged to support, uphold and safeguard the interests of minorities, I think clause 4, sub-clause (3) of the present Bill affords sufficient protection to the interests of barristers. In any case, so far as this question is concerned, in which I daresay Sir Maneckji is no longer keenly interested, he should have confined himself to safeguarding the interests of his class. On the main question, Sir, I submit let us have these Bar Councils and let us see how they work. If we find there are any defects which experience shows should be removed, it will always be open to the Legislature and the Government of India to make the necessary amendments. But it is for the reasons which I have already stated shortly before this House that I think it is high time that an attempt, an honest, earnest, serious attempt were made by Government to introduce a uniform system regulating the conduct and rights of the Bar.

Before I finish, Sir, let me say one word about the great part played by the Calcutta Bar not only in creating high traditions which have been followed in other High Courts in regard to professional conduct but the very great services that have been rendered by the Calcutta Bar in enlarging the sphere of public liberties. The Calcutta Bar has always enjoyed a unique position and in spite of the pessimistic remarks made by the Honourable Mr. Das regarding the Calcutta Bar, of which he was an ornament for such a long period, I have no reason to doubt that in spite of the passing of the present Bill many men will continue to send their sons to England for a more liberal education than is possible in certain cases in this country and that the Calcutta Bar will continue to attract members of the English Bar in sufficient numbers and that they will uphold the glorious traditions that their predecessors have built up during the last century. Sir, I support the Honourable Mr. Das's motion.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, let me congratulate the Honourable Mr. Das on the foresight and courage which he dis-

[Mr. V. Ramadas Pantulu.]

played both as a Member of the Indian Bar Committee and as sponsor of this measure. I am not congratulating him because I am satisfied with the measure. I may at once tell this House that the measure has satisfied neither barristers nor vakils. To a certain extent it trenches upon the privileges and monopolies of the barrister ; therefore the barrister is dissatisfied with it. To the vakil it has not given even a tenth part of what he wants, and therefore he is also dissatisfied. But we are all prepared to support it because we think it is a step in the proper direction—that is, the unification of the Bar of the country. The Honourable Mr. Das need not in the slightest degree feel that he is responsible in any way for the extinction of the English Bar. I assure him that in this country the vakil profession will welcome distinguished members of the English Bar from time to time. We never fail to recognise their merits, their capacities and the high traditions and character which they have maintained and tried to foster in this country. The Honourable Mr. Das is right in saying that he conceded to the sentiment of Indian public opinion. After all, in my opinion, Indian public sentiment is a matter that ought to weigh with the Legislature. Of course if there is any reason to maintain the distinction between the English barrister and the Indian vakil, and if the exigencies of the State or administration of justice require it, by all means do it. But is there such a justification to-day ? I am afraid the Honourable Sir Maneckji Dadabhoy is hopelessly out of touch with the conditions in India. He has not told us when he retired from practice. I must strongly protest against the line he has taken with regard to Indian sentiment. Is Sir Maneckji going to look to England for the supply of legal talent to India ? Is there any reason for such an attitude ? To-day the British Parliament has passed an enactment by which an Indian vakil without being enrolled as an advocate of any High Court can sit on the Judicial Committee of the Privy Council and try appeals from the highest courts of justice in India. And recently, Sir, the Honourable the Home Member assured us that he was going to initiate legislation to qualify a vakil to be a permanent Chief Justice of any High Court in India. The Advocates General of High Courts have been vakils. In my High Court Sir V. Bashiam Iyengar was the first Advocate General, and the Secretary of State for India appointed my Honourable friend, Sir Sankaran Nair, as the first permanent Advocate General of the Madras High Court. Since then several vakils have held the position with distinction and honour. Therefore, if a vakil can be a Judge of the Privy Council and the Chief Justice of a High Court and Advocate General of a High Court, is there any earthly reason to maintain this distinction between the English Bar and the Indian Bar except the mentality which looks up always to foreign agencies for our salvation ? I am sure that the arguments of the Honourable Sir Maneckji Dadabhoy have not impressed anybody. He began his speech by paying a compliment to the vakils and held them up to admiration for their high character and tradition. But a few minutes later he said that the traditions of the Bar would be considerably lowered if vakils were put on the same footing as barristers ; and he also said that the Bar Councils would be largely permeated by the vakils and would therefore be infected with political and communal poison. These are charges, Sir, which I emphatically repudiate and I would ask the Honourable Member to substantiate them by reference to instances if he has any.

THE HONOURABLE SIR MANECKJI DADABHOY : Time alone can show.

THE HONOURABLE MR. V. RAMADAS PANTULU : He was afraid that when questions of disciplinary action were brought up before the Bar Councils, the Councils permeated with vakils might not do justice. At present I may tell him that in my High Court whenever a case of professional misconduct comes up before a bench of the High Court the President of the Bar Association there is always given notice and he is present and the greatest consideration is shown to the views expressed by him. For some time my distinguished friend, Diwan Bahadur Rangachariar, was President of the Bar Association and at present another distinguished member of the Bar, Mr. T. R. Ramachandra Iyer, is President. On no occasion have the Judges of the High Court found any difficulty in accepting their recommendations as to how questions of professional conduct ought to be disposed of, and there was no disposition on the part of any President of a Bar Association in India to shield one of his own brothers ; they have tried to do their best to maintain the highest level of professional integrity and honour according to the best of their traditions. Sir Maneckji speaks of maintaining the traditions of the English Bar. I would ask the Honourable Member to read the evidence tendered before this Bar Committee. Judge after Judge, vakil after vakil, counsel after counsel, testified to the high traditions the vakil Bar maintains. I would ask my Honourable friend, further, to read the evidence given before the Students' Committee in London by students who go to the Inns of Court. They said that they felt humiliated at being asked to go to England for legal training in order to get a right place in their own Courts out here ; and I would ask him to read the evidence tendered by other witnesses before both these Committees. I think the Honourable Member has been carried away by sentiment of a false character.

With regard to my friend's very elaborate attempt to show that this is the thin end of a wedge, I assure him that it is and I wish it had been much thicker than it is, because I do not conceal the fact that the idea of the promoters of this legislation is to see that all the distinctions are completely annihilated and that the Bar in India is unified ; there will not be one grade of practitioners qualifying in India and another qualifying in England enjoying higher privileges. Our idea is to do all we can to see that unification is carried to fruition in the shortest possible time. I assure him of it.

There is one thing which I wish to say before I finish. The present system of dual agency—barristers and attorneys—prevails in two High Courts only, Calcutta and Bombay ; in Madras it has partially been abrogated to a large extent. Thanks to the foresight and wisdom of the Judges of the Madras High Court—they have enrolled many vakils as advocates and even without such enrolment vakils can practise on the original side just as barristers do. Those who are enamoured of this dual system, which is intended to give a preference to members of the English Bar, have failed to convince us. This dual system is costly. The Madras Government recommended its abolition. The barristers of Madras with one voice have asked for its abolition. Lord Haldane was for unification of the Bar in India and many other authorities are of the same opinion. The cost to the litigant is so great that no litigant

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will ever ask for its retention. In America as you all know there is no dual system and Viscount Bryce has borne eloquent testimony to the position and social status enjoyed by the profession there, a position not yet attained by the Bar on the east of the Atlantic. As the Americans say, it will not suit the Indian litigant to be lathered in one shop and shaved in another! I think that the Honourable Sir Maneckji Dadabhoy has put a lot of false sentiment into his speech.

I will say one word more. We are now trying to make India a self-governing country. The British bureaucracy is willing to surrender some of its monopoly to us and they are recruiting persons to the highest service in the land, the Indian Civil Service, in the country itself: those who are eager for the maintenance of the British character of the services are willing to yield to Indian sentiment. Is the Honourable Sir Maneckji Dadabhoy going to say that the Indian Civil Service man recruited in India should be treated in a different way from the Indian Civil Service man recruited in England? That is exactly what he says; that is what it comes to when he says that the Indian vakil should be treated differently from the barrister coming out from England. I believe he is not even prepared to go to the extent that the British bureaucracy is prepared to go. I am sure he is playing the role of being more Royal than the King, and I hope this House will not pay the slightest attention to what he has said or support him in the least.

THE HONOURABLE MR. S. R. DAS: Sir, I confess I feel tempted to wish that I could for a few minutes be a free lance to reply to some of the observations which have fallen from my friends here and particularly to apply a little cold douche on the youthful enthusiasm of my friend Sir Phiroze Sethna. But I am afraid that my position as member of the Government precludes me from taking part in a controversy between barristers and vakils. Therefore I refrain from making any observations; but there is one remark which fell from my Honourable friend, Saiyid Raza Ali, to which I think I should make some reply. Speaking of the incident which he narrated of a junior barrister having to be paid a thousand rupees to get out of a case for which he had been retained, because he happened to be a senior by reason of his position as a barrister to a senior vakil, the Honourable Mr. Raza Ali said that it had nothing to do with any question of misconduct. I was rather surprised to hear that because ordinarily, certainly to a barrister practising in Calcutta who has got the traditions of the Bar, it would have appeared a matter of very serious misconduct for a barrister to charge a thousand rupees to give up his brief in a case where his client felt that he could not do justice to the case. To them I am afraid it would savour of blackmail, of taking advantage of the difficulties of the position of his client to charge such a large fee as a thousand rupees in order to get out of the case. I think it right that I should make this observation because when the Bar Councils come into existence these are questions which would come up before them, and I trust that the Bar Councils will look upon conduct of that description not merely as a matter of seniority of call or position of the two practitioners, but as a matter involving very serious misconduct of the practitioner. Sir, I move that the Bill be taken into consideration.

THE HONOURABLE THE PRESIDENT: The question is :

"That the Bill to provide for the constitution of Bar Councils in British India and for other purposes, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clauses 2, 3, 4 and 5 were added to the Bill.

Clauses 6, 7 and 8 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is that clause 9 do stand part of the Bill.

THE HONOURABLE MR. KUMAR SANKAR ROY CHOUDHURI (East Bengal : Non-Muhammadan): Sir, I beg to move the amendment that stands in my name, namely :

"That the following proviso be added to clause 9 of the Bill :

'Provided that no person shall be disqualified for admission as advocate into any High Court merely on the ground of his not being domiciled within the jurisdiction of that High Court.'

Sir, the object of this amendment is merely to provide a safeguard against inter-provincial jealousies which greatly prejudice the national cause of the country. This is all the more necessary in view of the strong attitude taken by the Burma Government and the Burma High Court. The Burma Government has given expression to anti-Indian feeling in the opinion submitted by them, and the Burma High Court has also embodied and enforced a strict rule of domicile in admitting vakils into the rolls of vakils at Burma. This is highly objectionable and should be provided against. I therefore move my amendment for the acceptance of this House.

THE HONOURABLE MR S. R. DAS: Sir, I regret I cannot accept the amendment which was also moved in the other House and was also rejected. The Honourable the Mover will notice that whatever the rule may be which the Burma Government have passed with regard to domicile, under the present Bill it is left to the Bar Councils to make rules for qualifications for practice in the particular High Court to which the Bar Council is attached. The Government do not think that their discretion should in any way be fettered, but that it should be left to the Bar Councils to regulate the admission of practitioners, subject to the previous sanction of the High Court. I think my Honourable friend may trust, now that we are going to have Bar Councils, that they will make rules which will not discriminate between different provinces.

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, the amendment which has been moved is felt to be a desirable amendment by all those who have known the disabilities under which vakils and advocates of other High Courts are suffering in getting enrolment in the Burma High Court. I may be permitted to state that my going over to Burma after practising in the Madras High Court has been to some extent the reason for introducing this sort of invidious distinction requiring that in the case of persons who are not barristers, who have been practising in England or in Scotland, they should satisfy this condition that they are domiciled in Burma before they get enrolled. If the rules as to domicile and rules as to the passing of certain examinations were made applicable to one and all alike, to the English barristers as well as to the Indian High Court vakils, there would have been no reason to complain, but as it is, though the rule as to domicile is ostensibly intended to protect the indigenous Bar it is really intended to protect the European element of the Bar as

[Mr. P. C. Desika Chari.]

against the Indian element getting into Burma from the various Indian High Courts. The Honourable the Law Member has been giving the reason that under these rules the Bar Councils would have the power to regulate qualifications for admission. I am sorry to have to say that in this matter the Bar Councils may not relax the rule which has been in force for the last few years, because so far as I can remember I was the only witness before the Bar Committee who gave evidence against the removal of all these distinctions, which savour of racial distinction, introduced with a view to keep out the Indian element as against the European element. I submit, Sir, that the representatives of the people of India assembled in this Council should not give any support to a disqualification of this kind, and I hope and trust that the Members of this Council will extend their hearty support to the amendment proposed by my Honourable friend, Mr. Kumar Sankar Roy Choudhuri.

With these words I support the amendment.

THE HONOURABLE THE PRESIDENT: The original question was:
"That clause 9 do stand part of the Bill."

Since which an amendment has been moved:

"That the following proviso be added to clause 9 of the Bill:

'Provided that no person shall be disqualified for admission as advocate into any High Court merely on the ground of his not being domiciled within the jurisdiction of that High Court.'

The question I have to put is that that amendment be made.

The Council divided.

AYES—11.

Desika Chari, The Honourable Mr. P. C. Mehr Shah, The Honourable Nawab Sahibzada Sayad Mohammad.

Mukherji, The Honourable Srijut Lokenath Oberoi, The Honourable Sardar Shivdev Singh:

Ram Saran Das, The Honourable Rai Bahadur Lala.

Ramadas Pantulu, The Honourable Mr. V. NOES—29.

Abdul Karim, The Honourable Khan Bahadur Maulvi.

Alay Nabi, The Honourable Saiyid.

Bell, The Honourable Mr. J. W. A.

Charanjit Singh, The Honourable Sardar. Commander-in-Chief, His Excellency the.

Corbett, The Honourable Mr. G. L.

Crerer, The Honourable Mr. J.

Das, The Honourable Mr. S. R.

Emerson, The Honourable Mr. T.

Froom, The Honourable Sir Arthur.

Gray, The Honourable Mr. W. A.

Habibullah, The Honourable Khan Bahadur Sir Muhammad, Sahib Bahadur.

Jukes, The Honourable Mr. J. E. C.

Langley, The Honourable Mr. A.

Ley, The Honourable Mr. A. H.

Misra, The Honourable Pandit Shyam Bihari.

The motion was negatived.

Roy Choudhuri, The Honourable Mr. K. S. Sett, The Honourable Rai Bahadur Nalininath.

Sinha, The Honourable Mr. Anugraha Narayan.

Umar Hayat Khan, The Honourable Colonel Nawab Sir.

Zubair, The Honourable Shah Mohamad.

Muhammad Hussain, The Honourable Mian Ali Bakesh.

Nawab Ali Khan, The Honourable Raja.

Raza Ali, The Honourable Saiyid.

Richey, The Honourable Mr. J. A.

Sankaran Nair, The Honourable Sir Chettur.

Sethna, The Honourable Sir Phiroze C.

Smyth, The Honourable Mr. J. W.

Stow, The Honourable Mr. A. M.

Symons, The Honourable Major-General T. H.

Thompson, The Honourable Sir John Perronet.

Tireman, The Honourable Mr. H.

Wacha, The Honourable Sir Dinshaw Edulji.

Weston, The Honourable Mr. D.

Clauses 9, 10, 11, 12 and 13 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

“That clause 14 do stand part of the Bill.”

THE HONOURABLE MR. S. R. DAS : Sir, I move :

“That to clause 14 the following sub-clause be added, namely :

‘(3) Nothing in this section shall be deemed to limit or in any way affect the power of the High Court of Judicature at Fort William in Bengal or of the High Court of Judicature at Bombay to make rules determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction.’”

This amendment is moved with a view to correct an error of drafting. As I told the House when I moved for consideration of this Bill, the Bar Committee recommended that the dual system, that is the system of one set of practitioners acting like attorneys and another set pleading like barristers and advocates should be maintained. But clause 14 unfortunately, as it is now drafted, would have the effect of destroying that system. The Bar Committee, speaking of this dual system in Calcutta and Bombay, say in paragraph 26 of their Report :

“It follows from this division of opinion between us that we do not recommend any change in this respect of the existing system in India. It would only be possible to make such a recommendation, involving as it would the uprooting of long-established arrangements on the original sides of the Presidency High Courts, if we, as a Committee, were strongly of opinion that the present system is a bad one. As it is we are all agreed that where in India a compulsory dual system is now in existence that system should be allowed to continue. It is on the basis of this conclusion that we shall proceed to discuss the distinctions between advocates and vakils on the original sides of the High Courts at Calcutta, Bombay and Madras.”

That is their recommendation, which the Government of India have accepted, and in accordance with it this Bill was framed. It was never intended that the dual system should be in any way affected by this Bill, so far as the original side of the High Courts at Bombay and Calcutta were concerned. But as the House will notice, clause 14 says :

“An advocate shall be entitled as of right to practise—

(a) subject to the provisions of sub-section (4) of section 9, in the High Court of which he is an advocate.”

Now the provision of sub-section (4) of clause 9, as the House will remember, is merely that the High Court shall prescribe the qualifications for practising on the original side. But a legal practitioner who has those qualifications, say a barrister, would, under clause 14 as it has now been drafted, be entitled to practise on the original side of the High Court. Now practice means to appear, act and plead, so that, if the clause is left as it is, a member of the legal profession who has got the necessary qualifications prescribed by the High Court would be entitled on the original side to practise both in the nature of acting and pleading at the same time, which would entirely destroy the dual system which prevails there and which the Bar Committee recommends should not be interfered with. It was not noticed at the time clause 14 was drafted, and I am therefore moving this amendment for the purpose of correcting that drafting error, making it clear, so far as the original side is concerned, that the High Court shall prescribe what persons shall act and what persons shall plead

THE HONOURABLE MR. KUMAR SANKAR ROY CHOUDHURI: Sir, although I pointed out the defect in the original Bill which has necessitated this amendment, I rise to oppose this amendment, not because I am opposed to the interests of the solicitors, but because I am opposed to the dual system. It is a costly system which does not prevail in most other countries and in other provinces of India, and in spite of what might be said about its efficiency on account of division of labour, I do not agree that it does lead to any efficiency of work at all; for after all, a division of responsibility between those who act and those who plead, with no liability for negligence on the part of those who plead, leads, to my mind, to the most inefficient state of things. This division of labour, moreover, takes place in the unitary system as well without any shirking of responsibility on the part of anybody, for even there a busy lawyer is bound to leave the less important work of day to day detail to a junior, thus giving him full opportunity and scope for getting into practice. The unitary system is thus not only beneficial to the litigant public as being more efficient and less costly but it is equally beneficial to the profession as well. The clause as it stood without the proposed amendment would have enabled advocates practising on the original sides of the Calcutta and Bombay High Courts also, to act as well as to plead, but the amendment seeks to make that impossible. I therefore oppose the amendment.

THE HONOURABLE RAI BAHADUR NALININATH SETT (West Bengal : Non-Muhammadan) : Sir, I support the amendment of the Honourable the Law Member but I think the amendment ought to have been in this form, namely, the words "qualifications of the" should have been placed after the word "determining"—that is to say, the amendment should have run thus: ".... determining the qualifications of the persons who shall be entitled respectively to plead and to act in the High Court, etc." I think, Sir, the Law Member should add those words. As it is I think the Bill as passed by the other House leaves the point as to whether an advocate enrolled in the two High Courts, namely, at Calcutta and Bombay respectively, could not plead on the original side. As a matter of fact there was no prohibition in the Bill that an advocate would not act on the original side although the intention of the Bill is quite clear on that point. Sir, I do not think that this measure ought to have been applied to the High Court of Calcutta at all. The High Court at Calcutta has already rules which lay down the qualifications for the enrolment of the several branches of the legal profession. As a matter of fact, the High Court has allowed vakils to be enrolled as advocates for the purpose of appearing before the original side and there are at present about 150 of them practising or entitled to practise on the original side. Sir, the Bill seeks the unification of the various classes of the legal profession except the attorneys, and I am glad that the Honourable the Law Member has made it clear that this Bill will not apply to the qualifications which may be laid down by the High Courts of Bombay and Calcutta with regard to the advocates who will be able to plead and act respectively in those High Courts on their original sides. I therefore support this amendment.

THE HONOURABLE MR. S. R. DAS : Sir, with regard to the suggestion made by my Honourable friend Rai Bahadur Nalininath Sett, I do not think

it is necessary that the words " determining the qualifications " need be added. As a matter of fact sub-clause (4) of clause 9 leaves it to the High Court to prescribe the qualifications for practising on the original side and this gives the High Court power, or reserves the power which they already have, of determining which of those persons for whom qualifications have been set shall be entitled to plead and which shall be entitled to act.

THE HONOURABLE THE PRESIDENT : The original question was :

" That clause 14 do stand part of the Bill."

Since which an amendment has been moved :

" That to clause 14 the following sub-clause be added, namely :

'(3) Nothing in this section shall be deemed to limit or in any way affect the power of the High Court of Judicature at Fort William in Bengal or of the High Court of Judicature at Bombay to make rules determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction .'"

The question is that that amendment be made.

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clauses 15, 16, 17, 18 and 19 were added to the Bill.

Clause 1 was added to the Bill.

The Schedule was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS : Sir, I move that the Bill, as passed by the Legislative Assembly and as amended here, be passed.

The motion was adopted.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past two of the Clock, the Honourable Sir Phiroze Sethna in the Chair.

INDIAN FOREST BILL.

THE HONOURABLE SAIYID RAZA ALI : (United Provinces East : Muhammadan) : Sir, I move for leave to introduce a Bill to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.

The present Bill is a purely consolidation measure that has been carefully gone into by the Statute Law Revision Committee. As Honourable Members are aware, for several years the Statute Law Revision Committee has been doing useful work and the chief thing with which it is concerned is to consolidate those laws which are to be found in a number of scattered Acts. The present measure is also largely the outcome of the labours of that Committee. The general law is to be found in the Indian Forest Act, Act VII of 1878, and

[Saiyid Raza Ali.]

subsequent amending Acts. The present Bill brings the entire law within the scope of one enactment. I need hardly assure the Council that no conscious attempt whatsoever has been made to change the existing law in any way. But I think I might mention that there has been a departure on two points only. In the first place, the present Bill does not reproduce section 34 of the existing Act (VII of 1878). The reason is obvious. On investigation it was found that section 34 was spent and it was no longer possible to make use of it. Under this section persons having certain claims could prefer such claims within a period of twelve months from the date when that Act came into force. Therefore, it is no longer necessary now to reproduce that section. The second point which I think I must mention is that the language of section 42(2) of the existing law is extremely ambiguous. It is open to question whether under the sub-section it is the rules that can prescribe penalties which are double the maximum mentioned in sub-section (1) of section 42, or it is the courts that can inflict double the penalties prescribed by the rules. In all likelihood, the intention of the Legislature was that it should be the rules that should prescribe penalties double the maximum of those mentioned in the first sub-section of section 42. This is the view that has commended itself to the Statute Law Revision Committee and the Government also have agreed with that view. That is the only departure that has been made in the present law.

Clause 42 of the existing Bill makes the intention of the Legislature quite clear.

The motion was adopted.

THE HONOURABLE SAIYID RAZA ALI : Sir, I introduce the Bill.

PROVINCIAL INSOLVENCY (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move that the Bill further to amend the Provincial Insolvency Act, 1920, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

The Bill, Sir, is intended to give effect to certain recommendations of the Civil Justice Committee. Under section 36 of the Provincial Insolvency Act the Court has power to examine a third party who may be supposed to be indebted to the insolvent in order to elicit information. There is, however, no such provision in the Provincial Insolvency Act, and this Bill is intended to give such powers to such provincial courts as the Local Governments may think fit.

This Bill also incorporates the provisions of sections 88 and 89 of the Presidency-towns Insolvency Act. Under these sections the Court is authorised to appoint from among the creditors committees of inspection. There is no such provision in the Provincial Act, and this Bill intends to incorporate that.

Sub-section (3) of section 33 of the Provincial Insolvency Act provides that when a creditor applies to prove his claim, notice of such claim should be given to the insolvent who may contest the claim if he chooses to do so, but there is no provision of any notice being given to the receiver, and this Bill

provides that notice of such claim should be given to the receiver instead of to the insolvent, because he is the proper person to resist the claim and not the insolvent between whom and the creditor there may be collusion.

Then section 80 of the present Act entitles the High Court by rules to delegate to the receiver certain powers, namely, to hear insolvency petitions, to examine the debtor, to make orders of adjudication, to grant orders of discharge and to approve compositions or schemes of arrangement. The Civil Justice Committee recommended that the High Court should not have the power to delegate these powers to the receiver, and this Bill omits those powers from section 80.

Clause 3 of the Bill carries out a suggestion of the Rangoon High Court. At present fraudulent transfers by an insolvent or payment by way of undue preference to a creditor can only be annulled on a petition by the receiver or at the instance of the court itself. The Rangoon High Court suggested that that power should also be given to a creditor because it was pointed out that in certain cases the receiver may not be willing to make the application for want of funds or for other reasons, and clause 3 of this Bill gives that power to the creditor, that is to say, a creditor can apply to the Court to annul a transfer which he alleges to be a fraudulent one. These are the amendments which are intended to be given effect to by this Bill.

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

CODE OF CRIMINAL PROCEDURE (THIRD AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary) : Sir, I move that the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

Though this measure is of very considerable importance, it is brief, and I think I can observe a similar brevity in presenting it. It is unnecessary for me to dwell at length on the melancholy circumstances which have induced Government to lay this measure before the House. They are indeed the most disturbing, the most disquieting feature in the present state of the affairs of India. Their gravity is not limited solely to the loss of life, the loss of property, the danger to and the disturbance of the liberties of citizens proceeding on their lawful avocations, but their implications are of even greater import to the ordered progress of India in all directions. Those being, as I think, the admitted facts, I am not concerned now to inquire into their causes or to impute blame, but those being the circumstances, every member of this House will, I think, recognise that a very grave responsibility rests upon all whom they can in any sense be deemed to concern, and I can hardly imagine that there is a single right-minded man in India who does not deem those responsibilities his close concern. They must rest in many quarters, but they must rest with special force and

[Mr. J. Crerar.]

insistence on those of the various communities concerned who lay claim to enlightenment and public spirit, and on those who claim to be leaders rests the heaviest responsibility. But it is not my purpose to deny or to deprecate in any way the very great responsibility which also rests upon Government. A very large share of that responsibility is discharged—is daily being discharged—by the officers of Government who, in the course of their anxious and heavy duties, bear the burden and heat of the day and no small share of its dangers and its perils, while therefore it is generally incumbent upon Government to do all they can to cope with these unfortunate conditions, it is in my judgment especially incumbent upon them to do all that lies in their power to assist the local officers in the discharge of their heavy burden of duty. Every consideration urges the necessity of neglecting no measure which holds out a reasonable prospect of doing something definite and useful to curb the causes of these disturbances under which India is suffering. That is the intention of this Bill.

Honourable Members who have read the Statement of Objects and Reasons will see that there is a great defect in the existing state of the law, which it is necessary to remedy. We have already certain powers, more particularly we have the powers conferred by section 153A of the Indian Penal Code. That power, however, is solely a punitive power, and if we are to arrive at a proper estimate of the problem before us, the first point to emphasise is that punishment in cases of this kind is by no means the only or the most effective method of dealing with the matter in hand. We must not only punish, we must do our best to prevent. Section 99A of the Criminal Procedure Code, which this Bill proposes to amend, gives certain powers to the Local Governments to forfeit publications which offend against section 124A of the Indian Penal Code, that is to say, publications which are of a seditious character. This Bill has the object of granting the same powers to the Local Governments in respect of publications which offend against section 153A of the Indian Penal Code. It is quite obvious that to punish the culprit is not enough. The power of the word is great and words once liberated cannot easily be stayed. But obviously we have an absurd condition if, while the culprit is being tried, or while he is undergoing his punishment, the material substance of his words should be at large working all the mischief of which the culprit has been guilty, while he himself is temporarily under restraint. I may say that during the course of the last few months a large number of instances of that kind have been brought to the notice of Government. I mention this because it has been alleged that Government have not sufficiently used the powers already in their hands. In a large number of cases where action has been taken under section 153A, the mischief has continued simply because Government had no power to prevent the further dissemination of the matter which had formed the subject of the offence. That is what the Bill sets out to do.

(At this stage the Honourable Sir Phiroze Sethna vacated the Chair which was resumed by the Honourable the President).

There are two features of the proposal to which I invite the special attention of the House. It has been alleged, for example, that a measure of this kind permits some irresponsible Inspector of Police, actuated possibly by motives of communal animosity himself, to take vindictive measures against some of the

opposite faction. That is entirely a misconception. The powers conferred by this Bill cannot be exercised by subordinates. The decision must in all cases be the decision of the Local Government. In the second place there is an effective remedy. There is an opportunity for a reference to the High Court. It is not sufficient for the Local Government to hold that in its own opinion the matter impugned is open to objection. It is necessary for them to show that it actually constitutes an offence against section 153A of the Indian Penal Code. That is a matter in which the High Court can exercise very effective powers of supervision.

Now I propose to deal very briefly with a few of the general objections which are likely to be taken to the Bill. It has been said, "What do you propose to do? This is really not a solution of the evil. It is not a panacea for all the troubles that you are legislating for." No one suggested that it was a panacea; but it is an irrational position to adopt that, because it does not purport to be a complete solution, if nevertheless it is capable of achieving something, you should refuse to avail yourselves of it. It has been said that this measure would result in a serious encroachment on the liberty of the Press, and the great authority of Milton has, as I have seen, been invoked on that side of the controversy. I should like to point out in the first place that the case against which Milton was arguing was one which has no relevancy whatever, or only a remote relevancy. Milton was arguing in favour of the liberty of unlicensed printing which is a very different matter. What kind of liberty, if this measure is passed, can it conceivably be supposed to curb? Only the liberty to stir up strife and to promote hatred. That is a kind of liberty which is honoured beyond its deserts by being called liberty. It is not liberty but license, and I contend that the consequences of this measure will simply be to curb that license. I submit to the House that there is a wider and better form of liberty which it is our duty to preserve, even if we have to do so at the expense of curbing license of this kind, liberty for every citizen to go about his lawful occasions without constant danger to his life, his person, his property and his rights.

I have admitted that the Bill does not pretend to be a panacea. It does not go to the root of this very serious problem. We all know what the real remedy is, the growth as Lord Reading said not very long ago, of the spirit of toleration and enlightenment. Obviously the first necessity is to promote the growth and flourishing of that spirit, and I submit that our first duty, in order to do so, is to see that the conditions in which alone it is possible for that spirit to grow and to be fostered are maintained and preserved. The first of these conditions is that we should have a cool and firm and steady Government. If any Honourable Member of this House is inclined to suggest that there is anything drastic in the measure, I would invite him to examine the proposal made by a very well-known leader of political opinion.

He says :—

"In any area where a communal riot has taken place, all persons resident in that area should be immediately disenfranchised."

That proposal was not only approved by the Leader of the Swaraj Party, but it was even extended. The Leader of the Swaraj Party, in referring to Sir Tej Bahadur's proposal, said :

"It should be clearly laid down that no person residing in any area where a riot declared by competent authority to be communal has taken place shall be recommended

[Mr. J. Crerar.]

for honours of any kind, that no such person shall, for a term of years, be appointed in any department of the public service, and that if any such person is already in service he shall not for a similar term of years, be allowed any promotion or other advancement to which he may otherwise be entitled."

Well, Sir, it appears to me that those who are prepared to give powers to the Executive Government to disfranchise any and every constituency in India might not be exercising a very great degree of complaisance if they permitted the Government of India and the Local Governments to see that incitements to communal violence are restrained in the manner we now propose. At any rate I may point out that the measure which is actually before the House is a very mild, a very limited measure, compared with the measures which have been advocated on such high authority.

I have only one word more to say and I have done. During the course of the previous debates in this House Honourable Members opposite have expressed their readiness, if ever Government should come before them with a reasonable request for powers necessary to deal with law and order, to confer those powers. I have no doubt that those assurances were made in all sincerity. I have no doubt that Honourable Members opposite, in dealing with this measure, will not

" Falter with us in a double sense.

And keep the word of promise to our ear.

But break it to our hope".

Those being the assurances that we have received, that being the disposition which has been so frequently impressed upon us by nearly every gentleman opposite, I venture to say to them that here and now is their opportunity.

THE HONOURABLE SIR CHETTUR SANKARAN NAIR (Madras : Non-Muhammadan) : Sir, I fully recognise the gravity of the situation, in fact I accept fully the description that as things are now going on life is in danger, property is not safe, and there is no chance of any political progress as long as the feelings between the various communities continue what they are now. Fully recognising that, you will understand that, if I make any observations on the proposals now before the Council, I am not actuated by any hostility to them. I fully realise also that under these conditions it is our duty and the duty of the Council to give to the Government any powers that they may ask for if they think that those powers are essential in the interests of law and order. The first and main question therefore is, how far these powers will enable the Government to cope with the situation. I quite agree that the fact that it is no panacea is no argument against it, but there is not the same force in that argument when you find that what is now put forward is an interference with the liberty of speech. If it were not an interference with liberty of speech, if some proposal were put before the Council which was not an interference with liberty of speech, even if they were more drastic, I for one would have no hesitation in according my support to such proposals.

Now, Sir, let us consider this proposal for a moment, because we have an experience of the working of these sections for the last 20 years and more. We have the history of these sections. Section 153A came into existence on account of a sedition charge. How has that section been worked ? We know that there were articles both in the Anglo-Indian and Indian papers. We know that the Government did not proceed against the Anglo-Indian papers, while they did proceed against the Indian papers. What was the

result ? The result has been an intense bitterness against the Government for having made this difference between the Indian and the Anglo-Indian papers. The Reforms came and the Anglo-Indian papers have changed their tone, and in fact there is no longer that kind of attack against the Indians that prevailed before, but did the feeling in India subside ? No, the feeling remained though the cause disappeared. The Anglo-Indian papers changed their tone, but the change of that tone did not eradicate the feeling that had already been created in the mind. We pass on to the next Acts, the Press Acts of 1908 and 1910. Under those Acts steps were taken against various newspapers and against the persons who wrote certain pamphlets from 1915 to 1920. The Government of the Punjab utilised those powers more than any other. What has been the result ? I was receiving remonstrances and letters from those publishers and writers and newspapers against whom proceedings were taken by notice or otherwise. The result was that each and every one of them had a lot of things to say against the Government. Every one complained. Muhammadans complained ; Arya Samajists complained. The Punjab is a place of tremendous religious upheaval among the Arya Samajists, Hindus, Muhammadans and Sikhs ; there is also Christian religious propaganda going on. The result was there were attacks by Arya Samajists, Muhammadans, Sikhs and Christians, each one of them against the others. Well the Government took these steps ; I doubt not they were in many cases justifiable ; in some cases they may not have been, but that is not the question. Those steps were actually taken and the result has been a growth of the feeling against the Government. Every one against whom any step was taken became an enemy of Government. You cannot imagine the strong feeling shown by one or two Muhammadan editors against whom notices were issued. Arya Samajists too.

Now what would be the result of another measure like this ? You have somebody, a Hindu or a Muhammadan, writing a strong pamphlet against the other. The Government take steps against it. The result of that would be, if he is a Hindu he will say : "They have been attacking me ; here are the Muhammadans playing the devil with my religion ; I put forward a defence and yet Government are interfering with me". And there is no use disguising it because the Secretary of State himself has referred to it ; he will also say the Government are taking the side of the Muhammadans (*The Honourable Saiyid Raza Ali* : "Question, question."). My Honourable friend does not agree. If we did agree we would not have this Bill before the House. That will be the result of any action taken by the Government. Suppose you take any step against the Muhammadans, it will be just the same. "I defend my religion and here is the Government going against us ." (*The Honourable Saiyid Raza Ali*. "That is a better argument.") After that what will be the result ? The Honourable the Mover went on to say that we have to undo or rather to prevent the mischief for which no punitive measures will do, that if we try the man the result will be that while he is in jail everything will be before the public under discussion. But supposing a pamphlet is written and steps are taken against it and the pamphlet confiscated, don't you give the power to the man who has written it to go to the High Court ? Every thing is discussed there. It is therefore just the same as if you had taken the step later. I could have understood it if Government had come forward and said : "These things are being done and

[Sir Chettur Sankaran Nair.]

therefore we cannot leave these matters to the judiciary ; you must give us powers to interfere summarily by prohibiting the publication of these things, or by attaching them or confiscating them at once and giving no power to the person whose pamphlet we have confiscated to appeal to the civil courts." That would have been a very different thing. That would prevent the distribution of the pamphlet, the ventilation of the man's views ; that, as I know, was advocated before, but this is not the same thing.

Now I pass on to another part. Though I view this proposal with disfavour—I am afraid of it—I am not going to oppose it because I dare not oppose it under the conditions now existing in the country, and when the Executive Government come forward and say : " We want these powers." But I cannot help telling them what I feel about it. Then, Sir, the Honourable Mover's speech is disappointing in one respect. After saying all these things the Honourable Member referred to this measure as a step which they are going to take in order to put down this communal trouble, but he did not say what the Government are doing. All that he said was—and it is there I join issue with him—all that he said was, " we must look for the termination of all these troubles to the leaders of the various communities." Well, Sir.....

THE HONOURABLE MR. J. CRERAR : The Honourable Member does not correctly quote what I said. I distinctly said that while the responsibility rested partly upon the leaders of the communities, it also undoubtedly rested upon Government.

THE HONOURABLE SIR SANKARAN NAIR : It may be so ; I apologize. Those were the words I took down. However I am not disposed to question that, that is what he might have said. But the real remedy lies in the hands of Government and in the hands of Government mainly,—not partly in the hands of the leaders and partly in the hands of Government. In fact, there are no leaders now because the leaders follow the crowd. Neither the Muhammadan nor the Hindu leaders are leaders in the sense that they lead their followers and the others follow them. The Muhammadan leaders profess to be leaders, but what do they do ? They take their cue from the most fanatical of their followers. The Hindus do just the same. They profess to be leaders, but they are not so. How in these circumstances can we look to the leaders to improve the situation ? No, they cannot improve the situation. The masses are not educated, they are not sufficiently educated to realise their responsibilities. They are simply actuated by religious motives. If the Government say to these district officials in the localities concerned where riots have taken place once, they must not take place again, and if they do take place again we will know the reason why and the men responsible will have to pay for them. I feel quite certain, because we have dealt with riots far more important than these, far more dangerous than these, they will soon be things of the past. Let them not appeal to any leaders at all ; let them put their foot down and make an end of it. But so far as I can see the Punjab tragedy and the Khilafat agitation seem to have unnerved the Government altogether. There is an uneasy feeling all over the country that the Government are not putting their foot down, that they are not doing everything that should be done and could be done in order to put down these riots. Look at the list that has been placed on the

table to-day. The most dangerous of the disturbances we have had was that in Malabar. That was not a religious dispute between Hindus and Muhammadans. In Malabar it was a spirit of lawlessness that was abroad and it was against the Government.

THE HONOURABLE SIR ALEXANDER MUDDIMAN : Who suffered—the Hindus or the Muhammadans ?

THE HONOURABLE SIR SANKARAN NAIR : It was the Muhammadans against the Government, not against the Hindus. Look at what took place yesterday or the day before in Delhi, if the newspapers have rightly reported what has happened in Delhi. It was not a religious dispute there. Look at the list laid on the table to day by the Honourable Mr. Crerar. You will find many instances where these disturbances took place with which religion had nothing to do. What it shows is that it is the spirit of lawlessness that is abroad in the country which is due to the non-co-operation movement. But that does not excuse the Government for not taking the necessary steps to put down that spirit of lawlessness, and it is owing to the failure on the part of Government to put it down that these riots are going on like this. Unless the Government put their foot down, these measures are of no use. There is no use in simply telling the Council, as the Honourable the Home Member said this morning in reply to a question, " We leave it to the local officers ". That sort of thing will not do. If there has been any outbreak, any riot, in any one place it is not for the Government simply to say, " The local officer has dealt with it ". It is for them to see that the local officer deals with it in the way they want him to deal with it—that is, in a way that no riot shall ever take place there again. I have been reading all the reports about the riots which I could get hold of and the press communiqués issued by the Government. They all say : " In this case the Muhammadans have been looting the Hindus " or " In this case the Hindus have been looting the Muhammadans ". Well, we do not want to know that ; because when there is a breach of the peace there must be one party who is more guilty than another : that is for the courts to decide ; they will punish the guilty party. But what we want to know is this—and that element has been strangely wanting in the reports so far as I can see—was it or was it not in the power of the local officer to stop it ? The question is not whether he took the necessary steps to stop it after it commenced, but could he not have prevented it ? In all these reports placed before us, where is there any indication that the Government directed their attention to that fact ? Do the Government say this in any of their press communiqués ?

THE HONOURABLE SIR ALEXANDER MUDDIMAN : Certainly.

THE HONOURABLE SIR SANKARAN NAIR : I have not seen them ; I should like to read them if you have any. I have not seen any of them. That is one thing. If the local officers know that the Government will be down on them if a riot takes place there, you may be sure that even if it takes place once it would not take place twice. I do not propose to throw any obstacles in the way of this Bill or to oppose it in any respect. I fully accord my support to it. My only complaint has been that this Government are weak, that they have not dealt with the issue as it should have been dealt with ; that is my only complaint on that matter. I do not agree with my Honourable friend on my left when he says that the whole thing will be over in two years' time, because I do not think it will be over in

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two years' time; it will take a longer time; but if the Government act as I hope they will act, it will be over in two years' time.

THE HONOURABLE MR. D. WESTON (Bihar and Orissa: Nominated Official): Sir, in view of what has fallen from the last Honourable speaker I should like with the permission of this House to give them my personal experience of the last Bakr Id. I may say in preface that when I am not attending this Council I am in charge of a division in Bihar. And I was so in charge at the time of the Bakr Id. For some weeks—more than a month—previous to this festival, the district officers had taken the very greatest pains they could to prevent any outbreak of any sort occurring. In addition to the ordinary police precautions, they had formed not only at the divisional headquarters, but at district headquarters, sub-divisional headquarters, in thanas and in big villages, conciliation committees, and I must say that the Hindu and Muhammadan gentlemen who joined those did very excellent service which I am very glad to have this opportunity of acknowledging. Afterwards when all the occurrences were over, I had deputations of leading Hindus and Muhammadans waiting upon me; they were full of praise for the preventive action taken by the district officers, both magisterial and police, and, further than that, the Hindus said they had no complaints against the Muhammadan police and the Muhammadans said they had no complaints against the Hindu police. I submit, Sir, that appreciation cannot go any further than that in these days. Well, Sir, in spite of all these preventive measures that were taken, there are at present—and I ask the Council to mark this—there are at present no less than 300 men under trial in two districts for mischief, looting, rioting, arson and murder. As soon as the days on which *kurbani* or cow-sacrifice takes place were supposed to be over, I went out into the district where there was the greatest trouble and found to my astonishment that there were no Magistrates in headquarters. We have a rule in our province—I do not know whether it obtains anywhere else—that armed police should not be sent out unless they are accompanied by a Magistrate. The disturbances were so wide-spread that every Magistrate was out with bodies of armed police,—they were practically turned into policemen. In fact so great was the demand for them that we even had to put probationary deputy sub-magistrates in charge of armed police. Fortunately we had not to use arms because most of these young gentlemen have never even seen a bullet fired, much less fired one themselves. Now it may be argued that this trouble is due to the Bakr Id and is not likely to occur again. We all know that disturbances always do occur at that time and we always are prepared for it. But on this occasion there were only one or two instances where the trouble did occur owing to cow sacrifice; but they were very few indeed. Most of them occurred over the most trivial matters. I will give an instance of one such incident. There was an old woman—a Hindu—who went into an orchard belonging to a Muhammadan and stole some mangoes; the owner or his servant came and seized her, took away the mangoes and turned her out. She went to the village and told the people there how she had been beaten very badly by the Muhammadans. I may say that she did not have a mark on her; but they at once turned out and a riot ensued with very dire results. There were other cases, too, in which harmless wayfarers

were molested and beaten. In cases like that we could not take preventive measures ; we could not foresee that an old lady would steal mangoes and that a whole village would turn out to support her ; we could not foresee that attacks were going to be made on certain wayfarers passing along the roads. So when it is said that district officers were not taking preventive measures I say they are unjustly attacked ; they had done all that they possibly could. When I inquired into what they had done I found that several of them for two or three nights in succession had never been to bed—the District Magistrate himself had been out for two nights—and that was because, as soon as they heard that mobs were assembling at a particular place they at once went out in any conveyance they could get and endeavoured to stop the disturbances before they got out of hand entirely ; and some of the inferior officers too exhibited the greatest courage. There was one case in which a constable who was out on some other duty, heard that a mob had assembled in a certain village ; he called for the local chaukidar, rushed there and found a mob of some five hundred people assembled with *lathis* ; he ran up to them and said : “Look here ; the District Magistrate is coming in a motor car with cars full of armed police ; you had better be off.” I may say that the District Magistrate and the nearest armed police were then about twenty miles away. However, I presume this constable in his spare moments at the thana probably played poker ! Anyhow the bluff came off, and the mob dispersed. Sir, when the officers are doing their best, it is our duty to do everything we can to assist them. It has been pointed out by the Honourable Mover of this amendment that this is a preventive section, and I think it must be admitted that if we can seize inflammatory literature—while it is only a spark and before it becomes a blaze—if we can confiscate the poison before it is administered—there is no use in letting it be administered and then trying to find an antidote for it—we want to seize it before it is administered. The district officers want this power, the Local Governments want it, and I think, Sir, it is our duty here to give them what they ask for and see what effect it has. If it has not the desired effect, then we must ask for more power. But I have shown that they have been doing their utmost and now that they ask for this power, I hope this Honourable House will see that they get it.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, the Honourable the Home Secretary concluded his remarks with an appeal to this side of the House to live up to their professions and support Government in a measure of this kind. I am sure his appeal has not fallen on deaf ears. Even my Honourable friend, Sir Sankaran Nair, while he explained the operation of other similar Acts with which he found fault, has informed the House that he does not intend to oppose this measure. It is therefore for the House to consider whether the exceptional powers which Government are asking for should be given to them or not, and whether the time has arisen for it or otherwise. What they ask for is the power to search for and confiscate books, newspapers or any other documents which in the words of clause 2 (a) of the Bill “would promote or are intended to promote feelings of enmity or hatred between different classes of His Majesty’s subjects”. In other words Government are now wanting the power which exists in regard to seditious literature to extend also to any inflammatory literature which

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will tend to excite hatred amongst different communities. As a layman, and not being conversant with law, so far as I understand the position, sections 153A and 99 do enable Government to prosecute people for seditious literature as also for inflammatory literature, but while they can confiscate seditious literature, they are not in a position to confiscate inflammatory literature which this Bill proposes to enable them to do. If that is so, then they are not asking for anything which may be considered extravagant, particularly in times like the present. One cannot help admitting, with great regret, with great chagrin —nay with great shame—that communal riots in this country have extended very considerably, and Government do require every possible support in order to enable them to maintain law and order. There is perhaps another reason as well, and that may be due to the decision in a case in the Calcutta High Court. A leading paper in that city, the *Forward*, was prosecuted for reproducing in its columns a pamphlet, the language of which might be described as inflammatory. That paper in its defence urged before the Court that it did reproduce the pamphlet, but that it certainly was not in sympathy with the contents of the pamphlet, as was proved by a leading article in the same issue of that paper. The Judge who tried this case,—I believe it was Mr. Justice Rankin,—decided that the paper could not be prosecuted for reprinting a copy of the type of such literature with which that paper itself did not sympathise. I suppose that this decision has made Government think that it does leave a loophole for irresponsible papers to publish with a vengeance inflammatory leaflets in their columns, and therefore, if this power is given to them, the mischief can be stopped.

Whilst, therefore, I support the Bill, I must confess that I do not agree that it should remain permanently on the Statute-book. In every land, where there are religious differences, there are bound to be differences of opinion which sometimes result in communal riots and disturbances. This has been so in India in the past, but such occasions were few and far between. If they were oftener, then surely Government would have come forward many years ago to ask for the present exceptional powers which they are now demanding. They certainly consider it necessary to do so now on account of the repeated and frequent communal riots that have taken place during the last few months, but let us hope these riots are only a passing phase. Let us hope that with the advice given by His Excellency Lord Irwin to the communal leaders and also the steps which the communal leaders themselves are taking, they will prove a passing phase, and that, before long, we shall be rid of these disturbances which seem to be the order of the day to-day. My Honourable friend Sir Sankaran Nair said that he does not think that this is a passing phase, and that these riots and disturbances will not stop in the course of the next two or three years. I am not so pessimistic as he is. I certainly believe that with proper action taken by Government with the help of the powers which we shall give them by this Bill and with the steps which the communal leaders are taking, things will be restored to their pristine condition before long, and consequently, I appeal to the Government Benches not to put this measure permanently on the Statute-book. I am glad my friend sitting on my right has tabled an amendment whereby he would limit the

measure to two years. It may be argued that at the end of two years the position may not be very different. If that be so, then there is nothing to prevent Government from coming forward and asking this House, as well as the other House, for a continuance of the measure for a further period, and if that is done, I am confident that both the Houses will readily give their support to the Government if the circumstances warrant it. Perhaps some Member on the opposite side might get up and say that at the end of two years we might propose that the Bill be repealed, but asking for a repeal is very different from Government themselves limiting it to a fixed period and only coming forward to ask for a continuance of the measure should it be found necessary to do so. I may remind Honourable Members on the opposite Benches of the irritation caused by similar Acts, the Rowlatt Act and many others of the same kind. They certainly created a tension between the Government and the public, and I do say that to allow this Bill to remain permanently on the Statute-book will help to accentuate such tension. I certainly say the Bill requires to be supported but I do appeal to Government to see that this Bill is not made a permanent measure.

It will be regarded as an encroachment on the rights of the Press, as my Honourable friend Sir Sankaran Nair has put it to the House. I may ask Government to consider what its own supporters in the Press have said on this question. I do believe that if any newspaper has consistently supported Government more than another it is the *Statesman*, and yet what does that paper say? In its issue of the 21th August, it says :

"The Bill wears the aspect of panic legislation, and panic legislation is almost invariably bad."

Then it goes on to say :

"As it is scarcely possible to write a sentence upon Hindu-Muslim differences that is not regarded as offensive by one party or the other the Bill may conceivably be taken as a general licence to confiscate all publications on the subject. To put polemical writing on the same plane as sedition seems to us a very dangerous extension of the law into the field of conscience."

Now, Sir, no matter what that paper has said, I may assure the Honourable the Home Secretary who has moved this Bill that, so far as Honourable Members on this side are concerned, they are willing to extend to Government in times like the present the powers they ask for but with the reservation that I have mentioned in regard to time.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I whole-heartedly support this Bill. There is practical unanimity in support of the principles underlying this Bill that the mischief done by the spread of inflammatory literature should be stopped. My Honourable friends on the opposite Benches while supporting this Bill have asked Government not to put it on a permanent footing, but the provisions of the Bill are not really such as should cause any apprehension in the minds of my friends. What does this Bill really seek to do? That is the first point to be considered, and in judging of the question whether this legislation should be of a permanent or a temporary character, we have to ascertain what is the exact nature of the legislation that is brought forward.

[Sir Maneckji Dadabhoy.]

Now we have in this country a law which permits confiscation of presses for seditious matter. The Government come here and ask the House to give them sanction to a similar power being embodied in the Criminal Procedure Code for the confiscation of literature which is calculated or intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects.

THE HONOURABLE SAIYID RAZA ALI : "Any matter which promotes or is intended to promote feelings of enmity, etc."

THE HONOURABLE SIR MANECKJI DADABHOY : If there is justification for the retention of the power regarding seditious literature, is any Member of this House in a position to contend that there is less justification in more important cases where enmity and bitterness are created between races, and if in one case this power of a permanent character is required, can it be logically argued that in another that power should be permanently withheld ? I am unable to understand any distinction drawn in a matter of this kind. If the power is good, give it ; if the power is not proper and not reasonable, by all means reject it, but do not say : "Keep this legislation only for two years or one year or three years." The danger of adopting piecemeal measures is much more serious. Once the law is passed, whether it is good or bad, it will remain on the Statute-book. Nobody thinks of it, but if we go in for a limited period then when it expires a fresh motion is made in the House and the controversy is unnecessarily kept alive. I say it is an unwise policy ; it is inexpedient from all points of view that when legislation of a salutary and wholesome character is brought forward that it should only be fixed for a limited period. I abhor bitterness and controversy being kept continuously alive in the country with a fresh motion every two years for the continuance of the measure.

THE HONOURABLE SIR ARTHUR FROOM : Sir, on a point of order, we are not discussing the amendment that this Bill should remain in force for a period of two years.

THE HONOURABLE THE PRESIDENT : The Honourable Member is aware of the fact that I allowed the Honourable Sir Phiroze Sethna to deal with the question of the permanent or temporary nature of the measure, and I am allowing the Honourable Sir Maneckji Dadabhoy and other Honourable Members also to deal with that point on this motion.

THE HONOURABLE SIR ARTHUR FROOM : Will the Honourable Sir Phiroze Sethna be allowed to speak again on the same subject ?

THE HONOURABLE THE PRESIDENT : The Honourable Member should not ask a hypothetical question.

THE HONOURABLE SIR MANECKJI DADABHOY : I therefore do not see the advisability of such a restrictive legislation. I think, therefore, that all this agitation is unnecessary. Perhaps our friends are not aware that the Legislature had this power in the Press Act. That Act was repealed a short time ago and unfortunately through an oversight, Government's attention was not drawn to the provisions of section 99A.

THE HONOURABLE SAIYID RAZA ALI: Why did not you do so.

THE HONOURABLE SIR MANECKJI DADABHOY: It was also an oversight on my part.

Now, Sir, Government are not asking for any new piece or form of legislation. The Press Act among other powers gave the power of confiscation. The law did exist. I say by an omission advisedly, because I am not inclined to believe that it was a deliberate omission on the part of Government. I do not believe Government could have abandoned such an important power. During the last few years since 1922 when the Act was repealed, special powers of this nature were perhaps found to be unnecessary, but during the last few months riots have taken place in Calcutta, in Rawalpindi, at Kohat and various other places, which have made it necessary for Government to be armed with a weapon more useful, more prompt, and of a more determined and effective character, and Government come and ask for this additional power. Now my friend, the Honourable Sir Phiroze Sethna, in his exuberance of displeasure has referred to the Rowlatt Act. Does my friend know that the Rowlatt Act, though it existed on the Statute-book for several years, was not put into operation on a single occasion ?

THE HONOURABLE SIR PHIROZE SETHNA: I know that quite well.

THE HONOURABLE SIR MANECKJI DADABHOY: Why ? Because the legislation was there, the Act was there, there was the deterrent effect of that legislation.

THE HONOURABLE SIR PHIROZE SETHNA: Why then did they allow it to be repealed ?

THE HONOURABLE SIR MANECKJI DADABHOY: On account of the clamour of the party to which the Honourable Member has the honour to belong.

THE HONOURABLE SIR PHIROZE SETHNA: Thank you.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, therefore I am firmly of opinion that when Government are armed with this power, when people know that the disseminators of poisonous literature and literature of an inflammatory character calculated to promote ill-feeling between races, when the organizers and perpetrators of such mischief themselves know that their property is liable to be confiscated, they will soon stop indulging in pursuits of this character, and so in my humble opinion this legislation is most urgent and very welcome. Government think that this power will be useful to them. What right then have we, particularly, when we know that this power existed before and when we know the harmlessness of the power, to take objection ? Sir Sankaran Nair said: "Why did not Government put its strong foot down and stop all this lawlessness ?" Government are asking you to equip them with this power to stop this lawlessness and how logically can you refuse to give them that power ? Let us not be swayed by sentiment. It does not take away the liberty of any man. As the Honourable the Home Secretary said, it will only take away the liberty of the man who is ready to commit mischief and a breach of the common law. We are not here to protect the malcontents and the wrongdoers ; so for God's sake do not mix up liberty with license and the unpardonable crime of some of these people who are bringing

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ruination to the country and who are fanning and fomenting discontent and causing grave nuisance in the country. Remember that they are destroying all chances, all possibilities of your obtaining self-government. If you have got self-government at heart, whenever measures of this character come up, give your ungrudging support to them. It is in that way alone and by recognising our responsibilities as citizens that India will attain to the status of self-government.

THE HONOURABLE MR. A. M. STOW (Delhi : Nominated Official) : As one with some practical experience of the last five months in Delhi, I may, perhaps, be permitted to give the House an account of some incidents which illustrate what communal bitterness means in the great cities of Northern India. For months the atmosphere has been charged with open suspicion and suppressed excitement. The most trivial incidents have been seized upon as opportunities for displays of communal feeling. On one occasion a tramway conductor, a Hindu, sought to recover his fares from some Mussalman boys who were enjoying a free ride by jumping on and off his car. Before he knew where he was, he found himself the centre of a mob of excited partisans of either community, and he was with difficulty extricated by the kind offices of a passer by and by the arrival of the police. On another occasion a game of *kabaddi* indulged in by some Hindu and Mussalman boys suddenly developed into a communal quarrel of such dimensions that the police had to be called in to suppress it. Both these incidents, I am glad to say, ended before the parties actually came to blows. But I could quote dozens in which serious trouble was only averted by the action of the police or by some interested and kindly intentioned citizen. I regret to state that on two other occasions we were less fortunate. As is well known, the rioting during the Bakr-Id festival was caused by a run-away tonga driven by a Mussalman knocking down a Hindu. Only last Friday the Chandni Chowk was the scene of a somewhat serious affray in which brickbats and *lathis* were freely used. Now the immediate cause of this outbreak was this. A bank messenger, a Hindu, had been severely reprimanded by his bank manager, also a Hindu, for impertinence to a Muhammadan client of the bank. Thereupon the chaprasi took certain of his friends and proceeded for some act of revenge to the shop of the Mussalman, and thereupon a disturbance arose. Now, Sir, I would ask the Honourable Sir Sankaran Nair whether he thinks that it is easy to take precautions and measures against incidents such as those I have described. In fact, Sir, the situation may be summed up in the words of a War Office notice which I once saw displayed on an artillery range : "Caution ! these explosives are liable to explode." Should we be surprised that the Government, having the power to deal with the man who throws a bomb into this explosive material, should also seek to take power to deal with the accumulation of bombs collected by that misguided individual ?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, during the last two decades I have not only taken part in all the debates on the Bills which have been brought before the Legislature for preserving law and order, but also have whole-heartedly supported them ; this is no exception to the rule. There was only one occasion

when I was on active service, that I did not participate in the debate, and that was on the Rowlatt Act. There were certain speeches made in the House on that occasion, and when reported in the papers, they inflamed all the country, and we all know the trouble which ensued and which was so difficult to cope with. In the same way we are now confronted with the communal trouble and if we do not stop the same sort of inflammable literature from circulation, we must have similar results. The Arabic saying is "*man jarrab-al-mujarrab hallat bihin nidamat*". "If any man wants to experiment with something already experimented with, he feels sorry for his labours as he finds no new results." Before the Reforms when the power was mostly in the hands of the Government, the chief trouble was sedition against the State to snatch that power from it. Since more of that power has been delegated to the country, the line of action has been altered and communal troubles have synchronised more or less with the advent of the Reforms. I think there is no hiding this fact. The Honourable Mover has referred to the leaders. Well, there are leaders and leaders. There are leaders who have got the power to bring forward some thousands of men who will be ready to fight and die for them, but there are others who have got perhaps a syce and a cook, and they too would not obey them and would not be led by them when there is a danger. So it is only when there is trouble and when there are strained relations between the communities, that such leaders put themselves at the heads of their communities, and it is for this reason that I quite agree with the Honourable the Mover that the trouble has got a great deal to do with the so-called leaders. Just as we had previously to formulate laws to stop sedition against the State, so now when we know that the power is going to be divided between the contending communities, which is the main cause of the communal strife, it is absolutely necessary that literature which inflames the different communities should be at once forfeited, and that is why it is useful to have such a power which we should give to the Government.

Then, Sir, my friend Sir Sankaran Nair (he is, I am sorry to say, not here now) said that Government if they liked, could easily put a stop to such troubles. Well I absolutely agree with him that it could be done. It was done. Some brave officers did do it, but from that day neither my friend who has suggested that such a thing should be done, nor others of his class have forgiven them up to now for doing so. There was a famous speech once delivered in the House of Lords in England for which the great Indian personage who delivered it got a great honour and a high post, in which, with reference to such controversies he said that such storms come and pass away and there is no use worrying one's head about it ; but when those theories had to be worked in practice, it could not be done.

One of the Honourable Members said that this Bill will create evil between the two communities, as if you will punish one man, a Hindu or a Muhammadan, for such literature, he will be angry and perhaps will be against the Government.

Well, we should consider which is the lesser of the two evils, whether these men should be angry if their literature is confiscated or whether they should be allowed freely to pour out such literature on to the public, that people should go for each other's throat and neither life nor property should be safe. I being a Punjabi, Sir, am particular that such things should be nipped in the bud because

[Sir Umar Hayat Khan.]

to begin with our soldierly people are apt not to fight with words but to fight with their hands. That is one danger ; and the other is that our people being nearer to the Frontier, have somehow smuggled a good deal of arms in various places. Hitherto the scene of trouble has been only the cities where there are big offices employing a large number of educated clerks. These men of different communities get into trouble amongst themselves in the offices and they being more or less intelligent than the ordinary uneducated citizens are able to infect them with their ideas. If later on the trouble spreads to the countryside it will be a great nuisance because, Sir, there are places where there are hundreds of villages within one police station and that thana has not perhaps got more than 8 or 9 constables who are employed for different purposes. If trouble arises there it would be very difficult to stop it. It is for this purpose, Sir, that I strongly support the measure and hope all the House will agree in granting this power and not for two years only or such short period but permanently. And why should it be for a short period ? Do Honourable Members want that all this trouble should be hushed only for two years and then start afresh ? If it is to be stopped it ought to be stopped permanently and this ought to be a permanent law. With these few words I support the measure.

THE HONOURABLE SAIYID ALAY NABI : (United Provinces West : Muhammadan) : Sir, I must begin by congratulating the Government on this most important and necessary measure which has been brought forward by them not a minute too soon. When one reads section 153 and section 99-A and finds that the author of any seditious matter has not only to be punished but the literature has also to be confiscated, one wonders how it is that a man who is the author of a work which creates hatred between different classes is punished, while the literature goes about from hand to hand poisoning the minds of people. I could not for myself, when I considered this matter in this relation, find what the reason was of this defect in the law. But then I thought to myself the reason might be that the Government are loth and reluctant to legislate for matters which relate to communities so far as they can help it, and they intend to leave these matters to the communities to settle for themselves if they can. If my idea is correct, then I think they were not far wrong, because on occasions like these when legislation has to be undertaken and when disturbances have to be put down, there is always a cry on one side or the other that the Government are partial to one community or another. This has been the case more than once. It has gone so far that we heard Lord Olivier in the House of Lords, speaking on false information supplied to him, say that the Government were partial to one community as against another. It has gone too far. In those circumstances if Government have shown themselves loth to enter into communal matters, preferring to leave it to the leaders of public opinion of the different communities to settle their differences among themselves—that is perfectly right. After all, for a disease like this there are two remedies so far as I can understand it—either the leaders of public opinion, the leaders of public thought, must come forward and put down disturbances like these, devise all possible means to put down disturbances or, if they fail in their duty, then of course the Government have to come in and devise means to put down these kinds of troubles and disturbances. Now I must be

true to myself and I must be true to others. I say that the leaders of public opinion have failed in their duty to put down these disturbances all over the country. They had a unity conference ; they went down, they sat there and came away. They did not do anything. Then later on efforts were made on their behalf to bring about better relations between the two communities but nothing came of it. The Honourable Sir Sankaran Nair who has been talking a good deal about it has not been able to say that on his part he has been able to do anything in that direction.

Now, Sir, there is no question, and I think there is nobody in this House who will disagree with the proposition, that this is a very necessary piece of legislation, and that this Bill should go out of this House to be enforced whenever it is necessary. I do not think there is anybody in this House who does not agree with that proposition.

Now the other question is about the limit that is to be given to this Bill. I do not see any justification whatever for the life of this Bill to be limited only to two years. Of course I have heard a good deal about it from the Honourable Sir Phiroze Sethna, but I have not been able to convince myself that it would be wise at all that the life of this Bill should extend to two years only. After all, why do you want it for two years ? There can be only two reasons, and, if I am wrong in my assumptions, my Honourable friends can correct me. Either the reason would be that it is not to the credit of this country, that it is to the shame and disgrace of this country that a Bill like this should take its place permanently on the Statute-book, or the other reason may be that it is liable to abuse by the powers that will use it. Now, Sir, so far as the first part is concerned, when I heard Sir Phiroze Sethna it at once struck me that after all things are happening in this country which cannot possibly be concealed, whether it be on the Statute-book in the form of an Act or in the form of writings in the shape of history. After all the chronicler of modern events, the historian of the day, is bound to record these facts and they will find their place in history. I do not think it will be possible that these pages in the history of these times will be torn off after two years. They are there for all time ; and as they have to be there I think it is the duty in these circumstances of legislators to realise the difficulties of the position. We must rise to the occasion, we must be equal to the occasion, and we must legislate and say that we cannot possibly tolerate this sort of thing going on any longer in this country. Then, so far as the abuse of the power is concerned, I do not think there is anything in that argument. After all you have got a judiciary : whatever judiciary it is, it is there. It is responsible for carrying out the administration and interpretation of the law. There are so many sections of the Indian Penal Code and there are so many enactments which are more serious in their nature and the judiciary is responsible for carrying them out. You cannot possibly say that this particular section alone is bound to be abused by the judiciary which is responsible for the administration of justice in this country. I do not think there is anything, and my personal view is there is nothing, to be nervous about. After all you have a country which has no parallel in the world to-day. There is such a diversity of races, creeds and castes that you cannot possibly expect that things will be ideal in this country ; they can never be ; and you want a weapon in the armoury of your law like this to be applied whenever there is need for it. There is nothing to be ashamed about it. My idea is that when

[Saiyid Alay Nabi.]

you get Swaraj you will require it all the more owing to the peculiar conditions of this country. I would say, therefore, that we should not hesitate at all, that we should grasp the situation and take this opportunity of putting down this evil. Let the country at large give its verdict upon it. We are asked in the interests of the country to take a step which is absolutely essential for the welfare of the people. That is my view, Sir, about this piece of legislation.

THE HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-Official) : Sir, I strongly support this Bill. I am especially confirmed in my opinion that I should support it after what has fallen from the Commissioner of Delhi and the other Honourable gentleman on the opposite side from Bihar, and also after what has fallen from my Honourable friend Sir Sankaran Nair. The fact is that this inflammatory literature is spreading and spreading and there is no doubt that this inflammatory literature is one of the causes of recent riots ; and therefore when Government take strong measures for the purpose of protecting the lives and properties of the most peaceful and law-abiding citizens to be counted by millions, I think this law is essentially necessary and should be supported wholeheartedly. But I will give you another reason for giving it my cordial support. I do not know whether my colleagues, the Honourable non-official Members, know that there has been a Parliamentary blue-book just published by the Home Office in England in which no less than fifty out of a large number of letters, which were seized by order of the Government at home last October are published. Surprise raids were made on many of the mischievous Communist organizations here and there in England by Scotland Yard. The Government considered it necessary, particularly in view of the attempted General Strike by the coal miners, to publish them in order to prove the revolutionary character of these organisations. The book, which can be had for three shillings, has been specially published for popular information. Honourable gentlemen who read it will find that these organisations are broadcasting inflammatory literature in all parts of the British Empire, including India, by various means. What those abominable means are will be found in that blue-book which he who runs may read. This poisonous literature is vastly increasing and gathering great force. When such a state of broadcasting exists who will deny that it is time for Government to take what steps they deem most proper as a precautionary measure ? Honourable Members will probably be astonished to hear that these organisations are growing stronger in spreading their literature, the sole object of which is revolutionary, and are in communication with some of the well known members in India among whom there are three belonging to the Legislature. They are named in the glossary and you can read them for yourselves. What those are doing in communication with these revolutionary bodies we cannot say. But I would ask you to read that publication in order to learn for yourselves what I am saying and how India is being gradually drawn into their vortex more and more by their inflammatory literature, the sole objects of which is, I repeat, a bloody revolution. Here the British Government's first and most responsible duty is to keep law and order. What is the British Government here for ? They have been here for the last 150 years ; they have brought law and order and established Pax Britannica ; and now that the mischievous organizations of a foreign Government are trying to incite the population of

India by means of their propaganda in an indirect way, to create trouble in the British Indian Empire particularly on the Frontier, as my Honourable friend Sir Umar Hayat said, it is absolutely necessary that our Government should be fore-armed. I do not believe that this inflammatory literature will cease to circulate. It will increase ; and I entirely agree with Sir Sankaran Nair when he said that it was no use having a law like the one now before us for only two years. You can repeal it later if you do not want it after two years ; but it is of no use asking the Government to come again every now and then and have to reintroduce it. A permanent law is like Damocles' sword always hanging over the heads of those who are keen on giving trouble to the Government and it is but right and proper that the Government in their efforts to protect millions of peaceful citizens in their avocations should have brought up this Bill. I repeat, therefore, that I strongly support the Bill.

THE HONOURABLE MR. J. CRERAR : Sir, the course of the debate has, I am gratified to say, relieved me of the necessity of replying at any length because no Honourable Member in any part of the House has so far raised any objection to the principle of this measure. As regards the question of its duration, to which a certain amount of attention has been directed, I should prefer to reserve any remarks I may have to make for the stage when the amendment on the paper may be moved. At present I shall only say that this question was very carefully considered by Government. It was their deliberate intention that this amendment of the law should be permanent and, after giving careful consideration to all the various arguments to the contrary, they still remain of that opinion.

The only observations I have to make refer to the remarks made by the Honourable and learned Member from Madras whose absence from his place I regret. He supported—at least I understood him to say that he supported—the measure, but his support was given in language which I cannot allow to pass without some comment. In the first instance the Honourable Member criticised the Government : he imputed to Government a large measure of inactivity and almost of pusillanimity. He criticised even the wisdom of this measure because he said it would do nothing more than excite further ill-feeling against Government. Now I should like the House clearly to understand that in introducing this measure Government were not in the least degree actuated or influenced by any consideration as to whether the measure would be unpopular in the sense in which it was represented as likely to be unpopular by the Honourable and learned Member. I take it that the ill-feeling which the Honourable and learned Member referred to was on the part of persons who offended against the law, and I think that as against the ill-feeling entertained against Government by persons of that character, the Government would have a good deal of sympathy from all right-minded people.

I would only observe that, in so far as the Honourable Member's remarks are criticisms of Government, while he has been very free in his strictures, he is exceedingly reticent in his practical suggestions. He said Government should put their foot down. I am not quite sure whether some of the remarks which fell from my Honourable and gallant friend, Sir Umar Hayat Khan, were not a reply to the Honourable and learned member from Madras, but I do not propose to dwell further on this question. The only concluding words which I desire to say relate to the strictures passed by the Honourable

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and learned gentleman upon the district officers. He gave it as his deliberate opinion that if, wherever a communal riot occurred, the local officers responsible were strictly called to account, these riots would speedily cease. In other words he imputed the main cause of these riots to laches on the part of local officers. That is a position which I desire to repudiate in the most express terms. Two Honourable Members of this House have given to the House their own personal experiences relating to the disturbances and I need not recapitulate what they said. I would have inquired of the Honourable Member if he were here: Does he really and seriously expect the House to support him when he suggests that the local officers should have some strange clairvoyant premonition of the intentions of an old woman in the matter of mangoes, or that they should have some preordained knowledge that a tonga pony is going to bolt or have some inspired insight into the regrettable tendencies towards insolence of the chaprassi of a bank in his dealings with a Muhammadan merchant? If the Honourable Member seriously considers that any failure to predict beforehand such unfortunate aberrations of the human mind should be punished he does, in effect, I think, attribute a degree of almost supernatural wisdom to local officers, which may perhaps be justifiable but which should not lead up to the inferences which he draws.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 1 do stand part of the Bill."

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I beg to move the following amendment which stands in my name. It reads thus:—

"That clause 1 be re-numbered as sub-clause (1) of clause 1 and the following be added thereto, namely:—

"(2) It shall remain in force for a period of two years."

Sir, the effect of my amendment is to limit the operation of this Bill to a period of two years and to prevent its being placed on the Statute-book permanently. Sir, I move this amendment with considerable diffidence. A similar amendment which was supported in the Assembly by what the Honourable the Home Member sweetly termed "*reasonable opinion*" was turned down by him, not however as he assured us, without such "*earnest consideration*" as that opinion deserved. But here I am not so fortunate as to be classed among men holding reasonable opinions, for the simple reason that no Swarajist is a reasonable man in the estimation of my Honourable friends on the opposite Bench. I may therefore not have even the consolation of receiving an earnest consideration at the hands of the official spokesman in this House. I am not, however, much perturbed by that unpleasant prospect as it is not a new experience to me. But there is another reflection that has certainly a more real depressing effect on me. Some prominent elected

representatives of the other House found fault with the Honourable the Home Member for his unreasonably stiff attitude in ignoring even "reasonable opinion," and attributed it to the thinness of the non-official ranks owing to Swarajist defection and the consequent consciousness of his own voting strength. But the Honourable the Home Member, very rightly in my opinion, repudiated that charge and asserted that he would have assumed precisely the same attitude even if the Swarajists attended in their full strength and would not have flinched from the duty of putting the enactment permanently on the Statute-book. In other words, he proclaimed to all those whom it may concern that the Government of India did not hesitate to disregard public opinion as voiced by the Assembly, whatever might be its volume or strength. By this declaration, Sir, both the Swarajists and the Honourable the Home Member stood vindicated, the former by their right perception of the futility of their participation and the latter by his outspoken admission of the truly autocratic and irresponsible character of the Government of India even under the so-called reformed constitution. In these circumstances, Sir, I cannot pretend to be able to summon the enthusiasm and courage needed for the discharge of my task. Nevertheless, I cannot desist from doing what I consider to be my duty to give expression to the general public opinion on this Bill.

I shall now proceed, Sir, to state my objections to placing this measure permanently on the Statute-book. It is unquestionably an extraordinary measure and arms the Executive and its agents with dangerously wide powers. The practically unrestricted power of search of all conceivable places, where offensive literature may be reasonably suspected to be found, certainly constitutes a serious menace even to law-abiding and innocent citizens. In the anxiety to trace the offending leaflet every Hindu or Muhaminadan house can be searched by the police ; and thus the peace and tranquillity of many a home may be threatened and several persons may be subjected to indignities even without any intentional abuse of powers. (*The Honourable Sayyid Raza Ali* : "Not without a warrant.") A warrant can be issued at the request of the police, and it is always issued. Added to this there is the fact that the powers are also easily liable to abuse. In the first place, action is normally taken by Local Governments on the information of its Intelligence Department or similar agencies. In an atmosphere of communal tension the guarantee for the accuracy of such information is small, and so the chances of preventive or punitive action of a serious character being taken on unsubstantial grounds are great. In the next place, Sir, when communal feelings are embittered, it is not easy, humanly speaking, to expect officials belonging to the warring communities to act with that degree of care and impartiality which we have a right to demand from them. The probabilities in favour of their acting according to their communal predilection and harassing under the colour of law, members of the opposite community, are very real and should be guarded against. Such an abuse of power, which is not unlikely tends to promote instead of allaying communal bitterness.

Then, Sir, there is another vital consideration of a very disquieting character, the effect of this Bill on the Press. The freedom of the Press is one of the most valued and cherished rights in every country. It is doubly so in this country where an infant nation which is subject to autocratic rule is struggling for its liberty. If newspaper offices are frequently searched under the pro-

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visions of the new law, a serious blow will be inflicted on the liberty of the press. It is a notorious fact that the disposition of the bureaucracy is not a particularly friendly one to the Indian Press, specially the nationalist section of it, and the bureaucracy cannot be trusted to safeguard the rights of the Press. The Press, under the law as it exists even without the addition of this new Bill, is exposed to serious risks. A very respectable paper in the metropolis of Calcutta, the *Forward*, was prosecuted for doing a very legitimate duty and it had to go to the High Court to get justice. If a search precedes a prosecution under section 153A the trial of the Editor or Publisher will be seriously prejudiced as the preventive action taken by the Government may influence the judgment of the Magistrate.

I have said enough to give the House an idea of the extraordinary and repressive character of the measure. The Government were undoubtedly conscious of this fact and therefore dexterously chose a psychological moment for its introduction. They calculated that the Bill might not provoke violent opposition at a time when communal feelings attained their high water-mark and when people were disposed to acquiesce in, if not welcome, any device which has a pretence to ease the situation. But it must be remembered that even those who gave their support to the measure, merely expressed their readiness to tolerate it as a necessary evil for the time being. It is therefore unreasonable on the part of the Government to exploit the situation more than the circumstances justify. It is wrong to take advantage of the present phase of communal strife and make it a pretext to give a measure of this character a lasting place on the Statute-book. Section 99A of the Criminal Procedure Code as it stands now is rightly confined to seditious literature. Sedition is a most serious offence against the State and is punishable with transportation for life. An offence under section 153A on the other hand is a much less serious one in the opinion of the framers of the Indian Penal Code and is consequently made punishable with imprisonment for two years. Inflammatory communal literature, therefore, bears no analogy to seditious literature and the attempt to place these two permanently on the same footing for the purpose of section 99A is absolutely unjustifiable. Section 99A permits the Executive seriously to trench upon the liberties of the subject and can only be justified by the need for protecting the paramount interests involved in the safety of the State. A similar encroachment on the liberties of the subject for the prevention of less serious risks cannot be justified on any sound principle of jurisprudence. There is reasonable opinion on my side on this point. If you agree that the editor of the *Statesman* is a reasonable man, I would like to quote one sentence from what he says:—

"To put polemical writing on the same plane as sedition seems to us a very dangerous extension of the law into the field of conscience. We can imagine circumstances in which a report of a speech by a communal leader on the one side or the other would tend to promote feelings of enmity or hatred and the newspaper which reported that speech in the effort to discharge its duty of giving information to the public might subject itself to destruction. As it is scarcely possible to write a sentence upon Hindu-Moslem differences that is not regarded as offensive by one party or the other, the Bill may conceivably be taken as a general license to confiscate all publications on the subject."

If there is an emergency, let the Executive take from the Legislature limited powers to tide over the situation. It should not use its domination

over the Legislature to grasp power which is not absolutely necessary. I believe it is in recognition of this sound principle that the bureaucracy agreed to the repeal of the obnoxious Press Law in 1922, in one of its lucid intervals. But the morbid desire for the intoxication of power is responsible for this attempt to re-introduce permanently a portion of that law within four years of its repeal.

My friend the Honourable the Home Secretary said that it was not a drastic measure, and that a very responsible leader of public opinion and the leader of the Swaraj Party had suggested an even more drastic measure. I wish he had paid some attention to some other proposals made by the Swaraj Party. It suited him now to do so, and I hope it will suit him on other occasions also to listen to what they say. One clear fact he forgets and that is that the disenfranchisement proposed by the leaders in question is not an encroachment on the primary liberty of the subject and does not involve curtailment of personal freedom.

THE HONOURABLE SIR ALEXANDER MUDDIMAN: Is that not a primary right?

THE HONOURABLE MR. V. RAMADAS PANTULU: It is not a primary right. I would remind the Home Secretary that at present that right is enjoyed by not more than 2 per cent. of the population of this country, while your measure really exposes to danger millions of citizens. Therefore, I request him not to bring that analogy into this question especially when he pays no attention to what Swarajists say on other occasions.

I am not disposed to say anything about Sir Maneckji Dadabhoy's declamation against Sir Phiroze Sethna's party and the party to which I belong. I do not feel called upon to reply to him, as I used to in the last Council because he does not now represent any constituency. He represents either himself or the Government. Having failed to come in by the front door of election he entered this House by the back door of nomination.

THE HONOURABLE SIR MANECKJI DADABHOY: I do not. I oppose Government; I opposed them many times this week.

THE HONOURABLE MR. V. RAMADAS PANTULU: Therefore he represents only himself or the Government, so I need not answer him. I may remind him, however, that he is not the only man who has a stake in this country. All of us love peace and order in this country and all of us will be affected adversely by disorder. I would like to state for the benefit of the Government that when proposals come from this side of the House they do not come with any ill-feeling or with any bad motives. The interests of the country are dear to us as much as to them.

In conclusion, I desire to point out that the measure at best is of doubtful utility. The Government can do little to cure communal trouble by repressive legislation. The real remedy lies in dealing with the inner causes and not with merely outward symptoms of the disease.

With these words I commend my amendment to the acceptance of the House.

THE HONOURABLE SIR ALEXANDER MUDDIMAN (Home Member): Sir, I should not have inflicted any remarks on this House except for two reasons ; the first is that I very rarely have the opportunity of coming here, and the second is that this is a Bill of very considerable importance. Anything I say is not likely in the least to add to the able presentation of the case made by my Honourable friend Mr. Crerar, nor indeed is a very forcible presentation of the case necessary in a House which appears to be decidedly friendly to the Bill. My Responsivist friend opposite who has recently spoken, said that reasonable opinion should support his amendment. At any rate I will congratulate him on taking a more reasonable course than the rest of his Party in being here to represent their views in opposing the Bill. It looks to me as if had his friends in the other House taken the opportunity of which he availed himself, it is improbable that the Bill would be before this House to-day, and he would not be in a position to say I had not attended to reasonable opinion. Sir, the case before the House is in a nutshell. With the exception of my Honourable friend who has just spoken the House is favourable to this Bill. He undoubtedly is in effect opposing the Bill, and merely moves on his two years' extent because he knows he will get no support for direct opposition. It is not a real two years' amendment. The choice he puts to the House is not a question of a temporary or permanent measure, but of a measure or no measure. I have no doubt that many gentlemen who spoke on the motion for consideration do take the view that they would like the Bill for two years, but it is quite clear that the actual Mover of the amendment is against the Bill. He says in effect that " I cannot hope to throw the Bill out and will therefore make it as limited as I can." From his point of view I do not blame him. It is quite reasonable tactics. If I were in his position, I would probably do the same thing ; but it is well to call a spade a spade. Now, Sir, I have from the beginning made it perfectly clear in the other House, and I will endeavour to make it perfectly clear in this House that this Bill was not brought forward by Government as an emergency measure at all. It was brought forward as a definite proposal to stop a leak in the law. Prior to the repeal of the Press Act of 1922, at which time section 99A was inserted in the Criminal Procedure Code, Government had the power of forfeiting these inflammatory writings. I explained to the other House, as I explain now, that I do not understand why, when section 99A was under consideration, that point was not taken up. I have had the papers searched and the only thing I can find is a note by one of my predecessors that this is a power which Government should retain. Why in the general welter of the discussion around the repeal of the Press Act that escaped attention is more than I can say. But these are the facts and therefore it is quite wrong to say that I ever brought this forward as an emergency measure, or that I base any arguments on emergency. I say there is a defect in the law and that it is a defect which must be remedied. That defect has remained since 1922 and we are suffering from the accumulative effect of that defect now. That is one of the reasons why we are in such a bad position. If you are deprived of a power which you ought to have, the accumulative result of that defect is considerable, for the power is not merely useful for the purpose of its actual exercise, but exists, as I think my Honourable friend said, *in terrorem*. If a man knows you have that power, he is careful not to bring himself within the scope of the exercise of that power. So I wish to make it perfectly clear that this is intended as permanent legislation. Therefore, I am not in a position to accept any

amendment to reduce the term of its duration because we should be in exactly the same place in 1928 as we were in 1922. That, I think, was the main point which was made against the Bill.

Another point made against the Bill was that we were hitting below the belt in using a time of communal excitement for framing a Bill of this kind. Now I do ask the House, when is the time to bring forward a Bill, when it is needed or when it is not needed ? If I were to bring forward the Bill when it was not needed, you might say, " What are you doing, filling a theoretical leak in the law when there is no practical need for it ? " To say I am taking advantage of a time of popular excitement, does seem to me a most peculiar argument. Then my Honourable friend has pointed out that this is a Bill which confers dangerous rights on the executive authorities. That it confers powers on the executive authorities I agree ; that it confers considerable powers on the executive authorities I also agree ; that it confers powers on the lower officers of the police is not true and should not be said. The case is not bettered by over-statement. Furthermore, the restrictions with which this Bill is hedged round are remarkable. What sort of appeal has the man whose pamphlet or newspaper has been forfeited ? A most extraordinary tribunal, three Judges of the High Court. Why the Legislature in its infinite discretion ever thought fit to constitute a tribunal of three Judges of the High Court I cannot imagine, but that is so, and we have given an appeal to that same tribunal. A man can be sentenced to death and hanged by the order of two Judges, but a tribunal of three Judges is necessary to uphold the confiscation of what is admitted on all sides of the House is often poisonous matter. Now, Sir, I hear day and night of the rights of the people, people's rights. Now everybody's rights are necessarily limited by the rights of others, and that is a thing I do beg the House to bear in mind. There are no absolute rights ; no individual, no person lives *in vacuo* where he can say " I have the right to do this ". And let me remind those who speak so loudly of right, that there is such a thing as duty ; duties should be the correlative to rights. And, mark you, there is more required of a good citizen than a mere escape from the consequences of the criminal law. A citizen cannot be said to have discharged his duty merely because he does not fall within the scope of the law. He must do more. He has to live on those terms of amity with other citizens that make and alone make civilization possible.

There was one argument, a small thing, but it struck me as curious when I heard it. I do not wish to go into the actual point of whether the deprivation of the right of the franchise is a serious deprivation or not. I should like to say it does seem to me a curious argument to say that this Bill would affect more people than a proposal to deprive a whole constituency of the franchise. Now numerous as the newspapers are in India, I do not think—perhaps I might even say I rejoice in the thought—that they are as numerous as the two per cent. of the population which possesses the franchise in India. I trust, Sir, in these remarks I must not be considered as in any way controverting in a contentious spirit those who put forward the view that this should be a temporary Bill.

I do feel and I ought to feel quite strongly that while one Honourable Member put forward that view merely with the object of opposing the Bill, there are others who would be glad to see it on the Statute-book for a short time. But, as I said, I cannot accept any amendment of that kind. The Bill

[Sir Alexander Muddiman.]

was brought forward to stop a permanent leak in the law, and I trust this House will not be long in stopping that leak.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, so far as the merits of the amendment moved by the Honourable Mr. Ramadas Pantulu in relation to the Government are concerned, I do not think it is necessary for me to enter into them after the speech that has been made by the Honourable the Home Member. I, however, deem it my duty to say a few words so far as the present amendment is going to affect future progress and specially the constitutional advance of this country. Sir, I have not the least doubt that my friend Mr. Pantulu is a patriot. I must also confess that the party of which he is a member, whether I agree with or differ from the views of that party, consists of men who are trying to serve the interests of this country according to their own lights. Having said so much, let me invite the attention of my Honourable friend and his Swarajist colleagues to the conditions which obtain in the India of to-day. Sir, I distinctly remember that in 1920-21—rather up to the middle of the year 1922—the Government were feeling extremely anxious owing to the agitation that was being carried on in those days. It is a matter of common knowledge how the Government and their responsible officials felt in those days. In fact, very high officials of Government plainly admitted that they were sitting on the top of a volcano and there was no knowing when the eruption would come. Now, may I invite the attention of my Swarajist friends to this fact. Is it not a fact that whereas the Government were sitting in the crater of a volcano in the year 1920-21, we, the people of this country, we Hindus and Muhammadans, who live and have got to live in this country side by side, actually find ourselves in the midst of a prairie that is on fire on all sides. What is going to be the end of this unfortunate communal strife and discord that is spreading on all sides ? Sir, it is not a question of mere loss of property worth hundreds of thousands of rupees, nor is it a question of 10, 20, 100 or 1,000 lives being lost. The population is large enough, and the country after all, though poor, can yet at times I believe afford to waste property worth lakhs. Sir, what is most objectionable and dangerous is that atmosphere of distrust and suspicion which makes every Hindu distrust a Muhammadan and every Muhammadan distrust a Hindu. Instances have already been given by my Honourable friend Mr. Stow and the Honourable Mr. Weston. I am one of those who watched the incidents of three riots at Allahabad. I also know what gave rise to these riots. In fact, if you were to ask me what was the real cause of those riots, I would plainly say that there was absolutely no cause why these riots should have taken place except the utter want of trust and the existence of suspicion between the two communities. That was the real cause. Nobody actually knows what is going to happen at any particular moment, or what might not happen at any particular moment. If that is so, I put it to my Swarajist friends what is the duty of a Swarajist ? I ask myself—I pride myself on being a true nationalist—what is my duty as a true nationalist ? Never mind what the Honourable Mr. Crerar thinks ; never mind what the Honourable Sir Alexander Muddiman has said. What is the duty of our people ? What is the duty of all those who want this country to be a self-governing country in as short

a time as possible ? Now is it possible that anybody can imagine for a moment that with the present poisonous atmosphere working its way from north to south and from east to west, though this atmosphere continues, though the country remains divided into two rival armed camps, one consisting of Muhammadans and the other consisting of Hindus—is it possible for the people of this country, is it possible for us Hindus and Muhammadans, to go to the Government and say : “ No doubt there are quarrels amongst us, we are cutting each other’s throats, we are also looting each other’s houses, we are behaving in this most barbarous fashion, yet we ask you to give us self-government because the moment you concede it we will be able to do away with all these quarrels among ourselves ! ” Now is any sane man going to listen to a plea of this character ? I say, therefore, whatever may be the duty of Government—and as the Honourable Mr. Crerar has pointed out the Government realise that they are responsible, as undoubtedly they are, for maintaining law and order in this country,--I submit that more even than the duty of the Government is it the duty of all those who have got to live in this country and who are not going on a campaign of *hajirat* to settle in another country, it is the duty of all of us so to conduct ourselves that these communal bickerings and strife and discord should become a thing of the past. May I ask my Honourable friend through you what have the Hindus and Muhammadans done since the year 1923 when that big riot took place at Multan followed by other big riots elsewhere ? I am taking the biggest only. I am not mentioning the minor riots which in themselves had they taken place at any other time would have been important enough to attract the attention both of the Government and of the country. Now what have you done to remove that atmosphere, I ask ? One big riot is followed by another and the feeling is growing from bad to worse all the time. Multan is followed by Kohat, Kohat by Amritsar and Amritsar by Lucknow, Allahabad and Calcutta, while it is simply an impossible task to enumerate all the riots, big and small, which have taken place in the Imperial capital, namely, Delhi. Now is that a record of which we can feel proud ? Sir, unfortunately we have done nothing. I am not here to apportion blame between Hindus and Muhammadans. I have never attempted to do that in the course of recent rioting, but this much I must say, the leaders on both sides have failed, the leaders on the Hindu side have no more succeeded than the leaders on the Muhammadan side.

AN HONOURABLE MEMBER: What have the Government done ?

THE HONOURABLE SAIYID RAZA ALI : I am very glad my Honourable friend has put me a very pertinent question. I will say this—speaking frankly on the floor of this House—that courageous as is the measure brought forward to-day by the Honourable Mr. Crerar the Government ought to have done more than they have done to-day and ought to have brought special legislative measures earlier. The Honourable Mr. Crerar’s measure meets only one case, namely, the case of poisonous pamphlets being published and handed round from one person to another. Now what about the authors of these poisonous pamphlets that incite people to commit excesses ? Have the Government done anything against them ? No, except in a few cases. And who is responsible ? Very largely the vocal elements. Even in the case of this small measure brought forward by the Honourable Mr. Crerar we find

[Saiyid Raza Ali.]

the Swarajist ranks opposing it and trying to put the blame on Government officials to whom the country ought to be thankful. I do not think I can congratulate Mr. Ramadas Pantulu on the speech he has made. That speech was very much like the speech made by my Honourable friend Sir Sankaran Nair. The whole argument was devoted against the Bill—with this difference that whereas Sir Sankaran Nair wound up by saying that he was prepared to give his support to the Bill, Mr. Ramadas Pantulu came to the contrary conclusion—though no doubt he said that under the circumstances he was prepared to agree if it was to be operative only for two years. Sir, if this is the attitude of the Swaraj Party in this House, for which I am exceedingly sorry, is it open to the Swaraj Party to turn round and say to the Government: "You have failed to do your duty." How could the Government do their duty if the Swarajists are not going to co-operate with the Government on this vital question? I have got with me the full text of the letter that Pandit Motilal Nehru wrote to the *Pioneer* on Sir Tej Bahadur Sapru's proposal, but at this late hour I do not propose to detain the Council by reading it out; but Pandit Motilal Nehru has committed himself to one thing of which the Honourable Ramadas Pantulu and the other Swarajists might take note. Writing on the proposal of Sir Tej Bahadur Sapru, Pandit Motilal Nehru says:—

"I do not share the misgivings that are expressed in your editorial note about the attitude of the Legislative Assembly towards such a measure. As the Chamber is constituted to-day it is not likely to show any tenderness to the class of gentry Sir Tej Bahadur Sapru has in view. Speaking for the Swarajist members I can say with confidence that if a measure of the kind were to come before them it would receive their willing support as a step in the direction they are working."

Sir, this is what the leader of the Swaraj Party has got to say and that is the amendment of my honourable friend, Mr. Ramadas Pantulu. They are speaking absolutely with two voices. I do not know whose voice we should listen to; but so far as I can see it is absolutely impossible to reconcile the two tunes. (*An Honourable Member*: "Amendment is not opposition.") No, I do not say that; but the point is this. To whose interest is it that this Bill should be placed on the Statute-book? And why for two years? Really if communal strife is a bad thing and if communal strife to this extent has manifested itself now that we have got no more than four annas in the rupee in regard to self-government, what is going to be our fate when we get self-government full sixteen annas in the rupee? I am not a pessimist, but truly I do not know if the tension is going to increase with further constitutional advance as some people want to make out, on which question I am not expressing any opinion. I think it ought to be the duty of the Swarajists to see—indeed the demand should come from the Swarajists—that this Bill should be permanently placed on the Statute-book. An honest Swarajist should be the last man to say that its operation should be limited to a certain period only. Sir, with these words I strongly oppose the amendment of my Honourable and respected friend, Mr. Ramadas Pantulu.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 1 do stand part of the Bill."

Since which an amendment has been moved :

“ That clause 1 be renumbered as sub-clause (1) of clause 1 and the following be added thereto, namely :—

‘ (2) It shall remain in force for a period of two years.’ ”

The question I have to put is that that amendment be made.

The Council divided :

AYES—8.

Desika Chari, The Honourable Mr. P. C. Mukherji, The Honourable Srijut Lokenath. Ramadas Pantulu, The Honourable Mr. V. Roy Choudhuri, The Honourable Mr. K. S.

Sethna, The Honourable Sir Phiroze C. Sett, The Honourable Rai Bahadur Nalininath. Sinha, The Honourable Mr. Anugraha Narayan. Zubair, The Honourable Shah Mohammad.

NOES—30.

Abdul Karim, The Honourable Khan Bahadur Maulvi. Bell, The Honourable Mr. J. W. A. Charanjit Singh, The Honourable Sardar. Commander-in-Chief, His Excellency the. Corbett, The Honourable Mr. G. L. Crerar, The Honourable Mr. J. Dadabhoy, The Honourable Sir Maneckji Byramji. Das, The Honourable Mr. S. R. Emerson, The Honourable Mr. T. Froom, The Honourable Sir Arthur. Gray, The Honourable Mr. W. A. Habibullah, The Honourable Khan Bahadur Sir Muhammad, Sahib Bahadur. Jukes, The Honourable Mr. J. E. C. Langley, The Honourable Mr. A. Ley, The Honourable Mr. A. H.

Misra, The Honourable Pandit Shyam Bihari. Nawab Ali Khan, The Honourable Raja. Ram Saran Das, The Honourable Rai Bahadur Lala. Raza Ali, The Honourable Saiyid. Richey, The Honourable Mr. J. A. Singh, The Honourable Raja Sir Harnam. Smyth, The Honourable Mr. J. W. Stow, The Honourable Mr. A. M. Suhrawardy, The Honourable Mr. M. Symons, The Honourable Major-General T. H. Thompson, The Honourable Sir John Perronet. Tireman, The Honourable Mr. H. Umar Hayat Khan, The Honourable Colonel Nawab Sir. Wacha, The Honourable Sir Dinshaw Edulji. Weston, The Honourable Mr. D.

The motion was negatived.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR (Home Secretary) : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN SUCCESSION (AMENDMENT) BILL.

(AMENDMENT OF SECTION 57).

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move that the Bill to amend the Indian Succession Act, 1925, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

This is a very short measure. Under section 57 read with section 63 of the Indian Succession Act, wills by Hindus, Jains, Sikhs or Buddhists have to be reduced to writing, signed and attested, but these sections apply only to certain Provinces and certain Presidency-towns and outside those areas it is not necessary that wills should be in writing ; oral wills may be made. The Civil Justice Committee recommended that the provisions of these sections should be made applicable to every part of British India, and that in future no wills should be made except in writing, and that they should always be signed and attested.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN SUCCESSION (AMENDMENT) BILL.

(AMENDMENT OF SECTION 33).

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : Sir, I beg to move that the amendments made by the Legislative Assembly in the Bill to amend the provisions of section 33 of the Indian Succession Act, 1925, be taken into consideration.

Sir, I am almost inclined to offer an apology to this Council, because this small Bill has popped up again. It has popped up on several occasions ; I hope this will be the last occasion, but at the same time I almost think I shall miss it. Honourable Members of this House will no doubt have read the amendments made in the other place. The first one is, I understand, a purely drafting matter. The second one introduces an additional sub-clause in sub-clause (5) in clause 3. Sub-clause 5 of clause 3 will now read :

- “(i) any Indian Christian,
- “(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or
- “(iii).”

I must admit, Sir, that this did not occur to me, but it is a point which apparently occurred to the Honourable Mover of the amendment in another place, namely, that under certain circumstances the child or grandchild of an Indian Christian would not be held to be an Indian. When I introduced this Bill, Sir, I explained I intended it to be an entirely beneficiary Bill, and I do not

quarrel in any way with the small amendment made in the other place, and I think Honourable Members will have no fault to find with it.

I move, Sir, that the amendments made by the Legislative Assembly in the Bill to amend the provisions of section 33 of the Indian Succession Act, 1925, be taken into consideration.

THE HONOURABLE THE PRESIDENT: The question is :

"That the amendments made by the Legislative Assembly in the Bill to amend the provisions of section 33 of the Indian Succession Act, 1925, be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: Amendment No. 1.

In clause 3, in the proposed section 33A—

(i) in sub-section (3) for the words "in the same way as if such residue had been" the words "and such residue shall be distributed in accordance with the provisions of section 33 as if it were" were substituted.

The question is that this Council do agree in that amendment.

The motion was adopted

THE HONOURABLE THE PRESIDENT: Amendment No. 2.

In clause 3, in the proposed section 33A in sub-section (5) for the words "any Indian Christian or of" the following words were substituted, namely :—

"(i) any Indian Christian,
(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or
(iii) ".

The question is that this Council do agree in that amendment.

The motion was adopted.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, a message has been received from the Legislative Assembly indicating that, at their meeting of the 31st August, 1926, the Legislative Assembly agreed, without any amendments, to the following Bills which were passed by the Council of State on the 24th August, 1926 :—

1. The Bill further to amend the Indian Evidence Act, 1872, for a certain purpose.
2. The Bill further to amend the Administrator General's Act, 1913.
3. The Bill further to amend the Indian Companies Act, 1913, for a certain purpose.
4. The Bill to supplement the Sind Courts Act, 1926.
5. The Bill further to amend the Cantonments Act, 1924, for certain purposes.

The Council then adjourned *sine die*.

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